
Appeal Decision

Site visit made on 19 March 2014

by C L Sherratt DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 May 2014

Appeal Ref: APP/M9496/X/13/2205578

Bushey Heath Farm, Pittlemere Lane, Tideswell Moor, Tideswell, Buxton, Derbyshire SK17 8JE

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Roderick A Baraona against the decision of Peak District National Park Authority.
 - The application Ref NP/DDD/0713/0596, dated 9 July 2013, was refused by notice dated 3 September 2013.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is "use as a residential caravan as defined in the Caravan Sites Act 1968 - Section 13. Used continuously for long term residence for farm workers and family. Used as short term residence for visitors staying as holiday makers. The area marked in red, outside, has been used as a garden area for caravan occupants."
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal site forms part of a wider planning unit comprising Bushey Heath Farm which includes a dwellinghouse, barns which have been converted to holiday units and further outbuildings.
3. It is not disputed that a caravan has been stationed on the land for 30 years or thereabouts. However, the stationing of a caravan is not in itself development; it is the use of the caravan that determines whether any material change of use of land has occurred.
4. For the appeal to succeed and a certificate of lawfulness to be issued, the onus is on the appellant to demonstrate that, on the balance of probability, the land that is identified in the application has been used for the stationing of a caravan for residential purposes for a continuous period of 10 years or more, prior to the date of the application.
5. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. In this case the Council does not seek to produce any contradictory

evidence but considers the applicant's evidence is not sufficient to demonstrate a continuous use. The appellant's evidence in relation to the use of the caravan comprises statutory declarations from the appellant who has occupied Bushey Heath Farm since 8 June 2004, previous owners, some occupiers of the caravan and neighbours.

6. The statutory declaration from the appellant and his wife refers to a business diary confirming paying visitors who have stayed in the static caravan and the dates they stayed. This diary demonstrates some regular seasonal use of the caravan, primarily between the months of March to October, for short term holiday accommodation between 2004 and 2010, but this alone falls short of the ten years required to demonstrate a lawful use for that purpose.
7. Between June 2004 and 2010, longer term occupancy by farm workers is also recorded. Mr James Haddon confirms the dates he stayed in the caravan between June 2004 and December 2006 inclusive, which ranged from short periods of 1 or 2 weeks throughout 2005 and longer periods of 3 to 7 months in 2004, 2004/05 and 2006. Adrian Walker confirms in a letter that he stayed in the caravan for various periods of times since 2004 ranging from 1 night to 1 week.
8. The appellant's statement confirms that friends and family also occupied the caravan. However, it is unclear to what extent the caravan was occupied and the nature of that occupation and whether the caravan was simply used as an adjunct to the main dwelling when friends and family came to stay. This evidence is insufficiently precise in this regard and can be afforded little weight in support of the application.
9. Prior to June 2004, the appellant is reliant upon evidence from previous occupiers. The statutory declarations from Mr & Mrs Hadfield are not precise. It is unclear from the statutory declaration when and for how long the caravan was occupied by their son, Mr Fairburn or Mr Robinson and when, how frequently and in what capacity it was occupied by friends and family. It is acknowledged however that dates of stays are confirmed in some supporting letters. Mr Robinson confirms in a letter that he stayed in the caravan from August 1996 to November 1996. Mr Fairburn confirms in a letter that he stayed in the caravan from August 2000 to February 2001.
10. The evidence of Marilyn Fearn (nee Hadfield) provides no detailed information in relation to when or the extent the caravan was occupied by Mr Hadfield between 1995 and 1998. The term 'long periods' is not precise. Nor is it clear whether he occupied the caravan independently of the dwellinghouse. Similarly the nature of occupation by family and friends is not clear; in particular whether the caravan was simply used as an adjunct to the main dwelling when friends and family came to stay.
11. Overall, the evidence of occupation prior to 2004 is not sufficiently precise or unambiguous to demonstrate continuous occupation of the caravan prior to June 2004.
12. The appellant confirms that records ceased after 2010 because the caravan was renovated (over a winter period) and then occupied by the appellant's son, Thomas Baraona until May 2012. However, the nature of his occupation and whether it was ancillary to the main residence or not is not explained. No supporting evidence is provided from Thomas Baraona. Adrian Walker confirms

in his letter that he also stayed in the caravan from May 2012 until November 2012. The evidence beyond 2010 is vague and does not demonstrate a continuous occupation of the caravan for residential purposes.

13. Like the Council, I consider the evidence is not sufficient to demonstrate that, on the balance of probability, the caravan has been in continuous occupation for residential purposes for a period of 10 years. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of *'use as a residential caravan as defined in the Caravan Sites Act 1968 - Section 13; Used continuously for long term residence for farm workers and family; Used as short term residence for visitors staying as holiday makers; The area marked in red, outside, has been used as a garden area for caravan occupants'* was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Claire S herratt

INSPECTOR