The Planning Inspectorate

Appeal Decision

Site visit made on 30 October 2018

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 06 November 2018

Appeal Ref: APP/J1860/X/17/3187727
New Inn Farm, Worles Common, Stockton, Worcester, WR6 6XG

- The appeal is made under Section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the 1990 Act") against a refusal to grant a certificate of lawful use or development ("the CLU").
- The appeal is made by Adam Marriott ("the Appellant") against the decision of Malvern Hills District Council ("the Council").
- The application Reference 17/00338/CLE, dated 27 February 2016, was refused by notice dated 27 April 2017.
- The application was made under Section 191(1)(a) of the 1990 Act.
- The use for which the CLU sought was described on the application form as, "The permanent siting of a static home together with a lobby building at New Inn Farm for a period in excess of 10 years used as ancillary residential accommodation. It does not form a separate dwelling. Change of use of agricultural land to residential curtilage."
  Decision: The appeal is dismissed.

Procedural Matters

1. The Appellant has to show on the balance of probabilities that the CLU which he seeks has been carried on for a period of ten-years or more. The balance of probabilities means that the Appellant has to show that it is more likely than not that the use referred to in the application has been carried on for the requisite period.

2. In my Appeal Decision I will refer to:

   a) The static home and attached lobby building referred to in the application for the CLU as "the Caravan".

   b) The area of land where the Caravan has been sited as "the Appeal Site".

   c) A former occupier of the Caravan as "John Roberts".

   d) John Roberts's sons as "Max Roberts" and "Roy Roberts".

   e) The farmhouse for the farm known as New Inn Farm as "the Farmhouse".

Relevant Background Matters

3. John Roberts's was the brother of Michael Roberts. Michael Roberts' wife was Angela Roberts.

4. Michael Roberts's family owned and farmed New Inn Farm between 1948 and 2010.

5. New Inn Farm was, in the past, occupied by Michael Roberts and later by his window, Angela Roberts.

6. The Council claim that they have interrogated their aerial photographic records for the area including the Appeal Site and that the Caravan was not on the Appeal Site during 1999. The Council did not produce a copy of the photograph.

7. I was informed that Max Roberts was born in 1999 and his family were living in the Caravan at that time. It could well be the case that the Caravan was brought onto the Appeal Site in 1999 and occupied after the date when the photograph referred to above was taken.

8. James Farley's letter indicates that John Roberts and family were living in the Caravan "prior to the millennium".

9. The Council stated in their delegated report that the Caravan was originally sited on the Appeal Site during 2000.

10. I was also informed that Roy Roberts was born in 2001 and his family were living in the Caravan at that time.

11. The Appellant has produced aerial photographs and a non-aerial photograph which identifies the Caravan within the Appeal Site during 2005, 2006, 2013 and 2016.

12. John Allcock has lived near the Appeal Site since 2008. He confirms that:

    a) The Caravan was occupied by John Roberts and his family at that time.

    b) The Farmhouse was empty at that time.

13. Michael Roberts died in 2009.

14. The Appellant and his wife purchased New Inn Farm with vacant possession in about September 2010. Accordingly, the Caravan was not occupied when they purchased New Inn Farm. Prior to their purchase they had no knowledge of how the Caravan was used or occupied.

15. The Appellant confirmed that the Caravan has been used as ancillary accommodation to the Farmhouse since he and his wife purchased New Inn Farm.

Reasons

16. The use of the Caravan for which the CLU is sought is as ancillary residential accommodation to the Farmhouse.

17. I have no doubts that since the Appellant's purchase of New Inn Farm that the Caravan has been used for those purposes. The evidence regarding the frequency of the residential use is limited but it is clear on the evidence before me that the ancillary residential use was not abandoned between the Appellant's acquisition of New Inn Farm and the date of the application for the CLU. However, the CLU cannot be granted for that period of use because it has not been carried on for the requisite period of time i.e. ten years since the Appellant's acquisition of New Inn Farm.

18. As regards the use of the Caravan by John Roberts and his family I am not satisfied that there is sufficient evidence at the present time to conclude on the balance of probabilities that their use was ancillary to the use of the Farmhouse. There is very little evidence, if any, that indicates in what ways the use of the Caravan was ancillary to the Farmhouse. For instance there is no evidence that:

    a) Meals were prepared and eaten in the Farmhouse by the occupiers of the Caravan.

    b) Any other facilities within the Farmhouse were used in conjunction with the occupation of the Caravan e.g. that use of the bathroom.

19. Further, I note from John Allcock's representations that the Farmhouse was empty for a period during John Roberts' use of the Caravan. I have not been advised as to how long the Farmhouse was empty but during that period it is difficult to see how the use of the Caravan could have been ancillary to the use of the Farmhouse.

20. Finally, I also note that Angela Roberts describes the use of the Caravan during John Roberts and his family's occupation of the Caravan in the following terms, "so the caravan would have been their home". She does not suggest that the residential use of the Caravan was ancillary to the residential use of the Farmhouse.

21. I know that the electricity and water supplies to the Caravan are provided from the Farmhouse but his is not sufficient to persuade me that the use of the Caravan was ancillary to the Farmhouse. Further, I know that there is no functional kitchen, bath or shower within the Caravan today but it is not clear that this was always the case.

Overall Conclusions

22. For the reasons given above I conclude that the Council's refusal to grant the CLU in respect of the matters referred to in application 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 and dismiss the appeal.

Formal Decision

23. The appeal is dismissed.

Tim Belcher

Inspector