The Planning Inspectorate

Appeal Decision

Site visit made on 25 May 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/W1850/X/22/3310231

Land at Redwood Orchard, St Michaels, Tenbury Wells, Worcestershire, WR15 8TL.

- 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 Ms Brigid Eakins against the decision of Herefordshire Council.
- The application Ref 221165, dated 5 April 2022, was refused by notice dated 1 June 2022.
- The application was made under section 192(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 to site a caravan for use ancillary to agriculture.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which has been found to be lawful.

Application for costs

2. An application for costs has been made by the appellant against the Council. This is the subject of a separate decision.

Main Issue

3. The main issue is whether the Council's refusal to grant a Lawful Development Certificate was well founded.

Reasons

4. The appeal site comprises a rectangular area of mainly grassland situated in open countryside to the south-west of Tenbury Wells. The land also contains a timber structure which I would describe as a cabin.

5. The planning history of the site is relevant to the appeal. In particular a similar application for an LDC for the siting of a caravan for use ancillary to agriculture was allowed in October 2022 and although the Inspector considered there was some ambiguity in the appellant's case s/he found that the proposed use would be lawful. The reasoning in that decision clarifies the nature of the appellant's

intentions, and sets out in detail the legal definition of a caravan[1] which do not need to be repeated here.

6. At my site visit I noted that most of the land forming the appeal site was grassland and I have no reason to doubt its agricultural status. I also looked inside the timber cabin and while this had a fitted kitchen; a living area with sofa, table and chairs; and separate bathroom/toilet, the other separate rooms, which may have had the original function of bedrooms, were largely empty save for carpets, and were not furnished with beds or bedroom furniture. The cabin had the appearance of not having been used for some time.

7. Nevertheless, the appellant's grounds for appeal and written statement make it clear that the proposal relates to the proposed siting of a caravan for a use ancillary to agriculture and not for an existing use including the use of the actual timber cabin on site despite details of a similar structure being included with the application.

8. The evidence submitted with the appeal does not detail what the purposes ancillary to agriculture might be. However, it is generally accepted that a caravan may be used by an agricultural worker on the land for a bathroom/toilet; to make hot drinks and cook food and to have a rest during the day. However, use for overnight sleeping accommodation on a regular basis is unlikely to be ancillary and would constitute a material change of use if a different primary use was involved.

9. In the specific terms of the application, it is clear that no material change of use would be involved in using a caravan solely for purposes ancillary to agriculture and therefore the Council's decision to refuse the application was not sound. I will therefore allow the appeal and issue a certificate accordingly.

10. I must stress that this decision makes no determination on whether the existing timber cabin on site falls within the definition of being a caravan as defined in statute. Further, the use of a caravan for primary residential purposes would not be likely to fall within the scope of being ancillary to an agricultural use.

Conclusion

11. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

[1] As set out in Section 29 of the Caravan Sites and Control of Development Act 1960

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Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on the 5 April 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed siting of a caravan which accords with the legal definition of a caravan and its use ancillary to agriculture would not constitute development requiring planning permission as a material change of use.

Signed

David Murray
Inspector

Date 27 June 2023
Reference: APP/W1850/X/22/3310231

First Schedule

The siting of a caravan for a use ancillary to the agricultural use of the land

Second Schedule

Land at Redwood Orchard, St Michaels, Tenbury Wells, Worcestershire, WR15 8TL.

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

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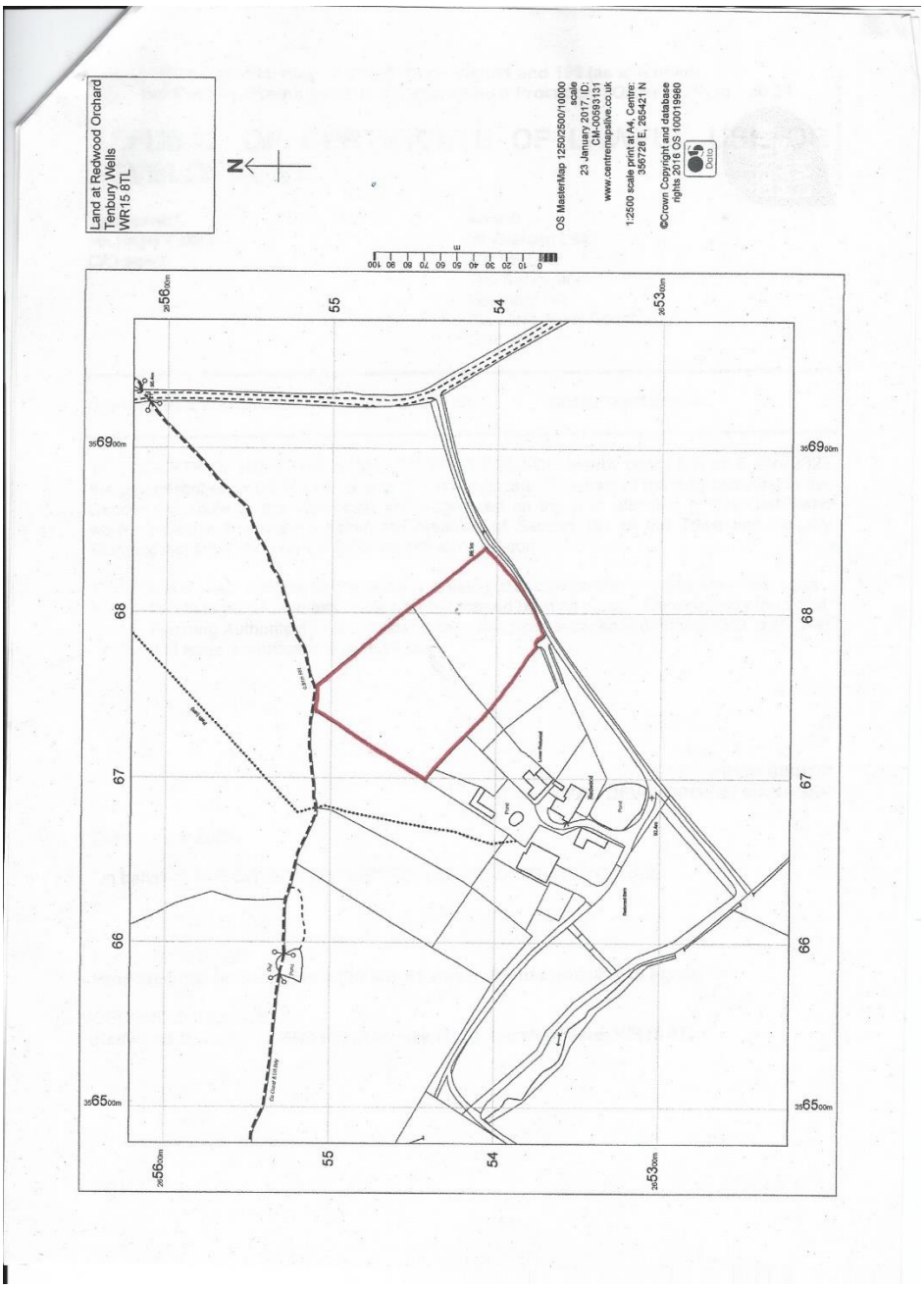
Plan

This is the plan referred to in my decision dated: 27 June 2023

by David Murray BA (Hons) DMS MRTPI

Land at: Land at Redwood Orchard, St Michaels, Tenbury Wells, Worcestershire, WR15 8TL.

Reference: APP/W1850/X/22/3310231
Scale: not to scale