STAFFORDSHIRE moorlands DISTRICT COUNCIL
ACHIEVING · EXCELLENCE

**Staffordshire Moorlands District Council**
Moorlands House, Stockwell Street, Leek
Staffordshire Moorlands, ST13 6HQ
Telephone: 0845 605 3013
**www.staffsmoorlands.gov.uk**

# Application for a Lawful Development Certificate for an Existing use or operation or activity including those in breach of a planning condition.

Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991.

Town and Country Planning (General Development Procedure) Order 1995

part one.

**Publication of planning applications on council websites**

**Please note that with the exception of applicant contact details and Certificates of Ownership, the information provided on this application form and in supporting documents may be published on the council's website.**

**If you have provided any other information as part of your application which falls within the definition of personal data under the Data Protection Act which you do not wish to be published on the council's website, please contact the council's planning department.**

Please complete using block capitals and black ink.
It is important that you read the accompanying guidance notes as incorrect completion will delay the processing of your application.

## 1. Applicant Name and Address

| | | | | |
|---|---|---|---|---|
| Title: | Mr & Mrs | First name: | Simon + Kirsten | |
| Last name: | Bailey | | | |
| Company (optional): | | | | |
| Unit: | | House number: | 1 | House suffix: |
| House name: | Smithy Fold - Macclesfield Rd | | | |
| Address 1: | | | | |
| Address 2: | | | | |
| Address 3: | | | | |
| Town: | Rushton Spencer | | | |
| County: | Staffordshire | | | |
| Country: | | | | |
| Postcode: | SK 11 0SD | | | |

## 2. Agent Name and Address

| | | | | |
|---|---|---|---|---|
| Title: | | First name: | | |
| Last name: | | | | |
| Company (optional): | | | | |
| Unit: | | House number: | | House suffix: |
| House name: | | | | |
| Address 1: | | | | |
| Address 2: | MICHAEL SUTCLIFFE & ASSOCIATES | | | |
| Address 3: | CHARTERED TOWN PLANNERS Ivy House | | | |
| Town: | Waterfall Lane Waterfall | | | |
| County: | Waterhouses Staffordshire | | | |
| Country: | ST10 3HT Tel: 01538 308821 | | | |
| Postcode: | | | | |

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## 3. Site Address Details

Please provide the full postal address of the application site.

Unit: | House number: | House suffix:

House name: Cloudville (Farm)

Address 1: Red Lane - Cloudville

Address 2:

Address 3:

Town: Congleton

County: Cheshire

Postcode (optional): CW12 3QQ

Description of location or a grid reference.
(must be completed if postcode is not known):

Easting: | Northing:

Description:

## 4. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application? ☑ Yes ☐ No

If Yes, please complete the following information about the advice you were given. (This will help the authority to deal with this application more efficiently).

Please tick if the full contact details are not known, and then complete as much as possible: ☐

Officer name: Rob Duncan

Reference:

Date (DD/MM/YYYY):
(must be pre-application submission)

Details of pre-application advice received?

Cllr Heath presented evidence to Mr Duncan on the basis of which he indicated a neutral outcome

## 5. Lawful Development Certificate - Interest In Land

Please state the applicant's interest in the land:

Owner: ☑ Yes ☐ No Lessee: ☐ Yes ☐ No Occupier: ☐ Yes ☐ No

If Yes to Lessee or Occupier please give details of the owner and state whether they have been informed in writing of this application:

| Name | Address | Have they been informed in writing of the application Yes | No |
|---|---|---|---|
| | | ☐ | ☐ |

if No to all the above, pleases give name and addresses of anyone you know who has an interest in the land:

| Name | Address | State the nature of their interest (if known) | State whether they have been informed about this application Yes | No | If No, please explain why not |
|---|---|---|---|---|---|
| | | | ☐ | ☐ | |
| | | | ☐ | ☐ | |
| | | | ☐ | ☐ | |
| | | | ☐ | ☐ | |

## 6. Council Employee / Member

Is the applicant or agent related to any member of staff or elected member of the council? ☐ Yes ☑ No

If Yes, please provide details:

Please state for which of these you need a lawful development certificate/building works (you must tick at least one option):

| | | |
|---|---|---|
| An existing use: | ☑ Yes | ☐ No |
| Existing building works: | ☑ Yes | ☐ No |
| An existing use, building work or activity in breach of a condition: | ☐ Yes | ☐ No |

Being a use, building works or activity which is still going on at the date of this application

If Yes to either 'an existing use' or 'an existing use in breach of a condition', please state which one of the Use Classes of the Town and Country Planning (Use Classes) Order 1987 (as amended) the use relates to:

Residential Use

What is the existing site use(s) for which the certificate of lawfulness is being sought? Please fully describe each use and state which part of the land the use relates to:

Residential Use - vacant Dwelling undergoing repair & maintenance and its curtilage

## 9. Grounds For Application For A Lawful Development Certificate

Please state under what grounds is the certificate sought (you must tick at least one box):

- ☑ The use began more than 10 years before the date of this application.
- ☐ The use, building works or activity in breach of condition began more than 10 years before the date of this application.
- ☐ The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years.
- ☐ The building works (for instance, building or engineering works) were substantially completed more than four years before the date of this application.
- ☐ The use as a single dwelling house began more than four years before the date of this application.
- ☐ Other - please specify (this might include claims that the change of use of building work was not development, or that it benefited from planning permission granted under the Act or by the General Permitted Development Order).

If the certificate is sought on 'Other' grounds please give details:

Although not occupied since 1964 there has been a continuous programme of repair and maintenance until the present and the use has not been abandoned

If applicable, please give the reference number of any existing planning permission, lawful development certificate or enforcement notice affecting the application site. Include its date and the number of any condition being breached:

Reference Number: SM/14079 Condition Number: Date (DD/MM/YYYY): (must be pre application submission) 3.7.65

Please state why a Lawful Development Certificate should be granted:

To confirm that Residential Use is lawful and the property can be occupied by Mrs S and Mrs K Bailey the owners

## 10. Information In Support Of A Lawful Development Certificate

When was the use or activity begun, or the building works substantially completed: (date must be pre-application submission) (DD/MM/YYYY)

In the case of an existing use or activity in breach of conditions has there been any interruption? ☐ Yes ☑ No

If Yes, please provide details of the dates, duration and any discontinuance of the development which is the subject of this application. If your application is based on the claim that a use or activity has been ongoing for a period of years, please state exactly when any interruption occurred:

The property has not been lived in since 1964 but a continuous programme of repair & maintenance has been undertaken with the intent of living there

In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought? ☐ Yes ☑ No

If Yes please provide details?

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Does the application for a Certificate relate to a residential use where the number of residential units has changed? ☐ Yes ☑ No
If Yes, please complete the following table:

## Proposed Housing

| | Number of Bedrooms | | | | | Total |
|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4+ | Unknown | |
| **Market Housing** | | | | | | |
| Houses | | | | | | |
| Flats & Maisonettes | | | | | | |
| Live-Work Units | | | | | | |
| Cluster Flats | | | | | | |
| Sheltered Housing | | | | | | |
| Bedsit/Studios | | | | | | |
| Unknown | | | | | | |
| **Market Housing Total** *(a + b + c + d + e + f + g) =* | | | | | | |

| **Social Rented Housing** | 1 | 2 | 3 | 4+ | Unknown | |
|---|---|---|---|---|---|---|
| Houses | | | | | | |
| Flats & Maisonettes | | | | | | |
| Live-Work Units | | | | | | |
| Cluster Flats | | | | | | |
| Sheltered Housing | | | | | | |
| Bedsit/Studios | | | | | | |
| Unknown | | | | | | |
| **Social Rented Housing Total** *(a + b + c + d + e + f + g) =* | | | | | | |

| **Intermediate Housing** | 1 | 2 | 3 | 4+ | Unknown | |
|---|---|---|---|---|---|---|
| Houses | | | | | | |
| Flats & Maisonettes | | | | | | |
| Live-Work Units | | | | | | |
| Cluster Flats | | | | | | |
| Sheltered Housing | | | | | | |
| Bedsit/Studios | | | | | | |
| Unknown | | | | | | |
| **Intermediate Housing Total** *(a + b + c + d + e + f + g) =* | | | | | | |

| **Key Worker Housing** | 1 | 2 | 3 | 4+ | Unknown | |
|---|---|---|---|---|---|---|
| Houses | | | | | | |
| Flats & Maisonettes | | | | | | |
| Live-Work Units | | | | | | |
| Cluster Flats | | | | | | |
| Sheltered Housing | | | | | | |
| Bedsit/Studios | | | | | | |
| Unknown | | | | | | |
| **Key Worker Housing Total** *(a + b + c + d + e + f + g) =* | | | | | | |

| **Proposed Housing Grand Total** *(A + B + C + D) =* | |
|---|---|

## Existing Housing

| | Number of Bedrooms | | | | | Total |
|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4+ | Unknown | |
| **Market Housing** | | | | | | |
| Houses | | | | | | |
| Flats & Maisonettes | | | | | | |
| Live-Work Units | | | | | | |
| Cluster Flats | | | | | | |
| Sheltered Housing | | | | | | |
| Bedsit/Studios | | | | | | |
| Unknown | | | | | | |
| **Market Housing Total** *(a + b + c + d + e + f + g) =* | | | | | | |

| **Social Rented Housing** | 1 | 2 | 3 | 4+ | Unknown | |
|---|---|---|---|---|---|---|
| Houses | | | | | | |
| Flats & Maisonettes | | | | | | |
| Live-Work Units | | | | | | |
| Cluster Flats | | | | | | |
| Sheltered Housing | | | | | | |
| Bedsit/Studios | | | | | | |
| Unknown | | | | | | |
| **Social Rented Housing Total** *(a + b + c + d + e + f + g) =* | | | | | | |

| **Intermediate Housing** | 1 | 2 | 3 | 4+ | Unknown | |
|---|---|---|---|---|---|---|
| Houses | | | | | | |
| Flats & Maisonettes | | | | | | |
| Live-Work Units | | | | | | |
| Cluster Flats | | | | | | |
| Sheltered Housing | | | | | | |
| Bedsit/Studios | | | | | | |
| Unknown | | | | | | |
| **Intermediate Housing Total** *(a + b + c + d + e + f + g) =* | | | | | | |

| **Key Worker Housing** | 1 | 2 | 3 | 4+ | Unknown | |
|---|---|---|---|---|---|---|
| Houses | | | | | | |
| Flats & Maisonettes | | | | | | |
| Live-Work Units | | | | | | |
| Cluster Flats | | | | | | |
| Sheltered Housing | | | | | | |
| Bedsit/Studios | | | | | | |
| Unknown | | | | | | |
| **Key Worker Housing Total** *(a + b + c + d + e + f + g) =* | | | | | | |

| **Existing Housing Grand Total** *(E + F + G + H) =* | |
|---|---|

**TOTAL NET GAIN or LOSS of RESIDENTIAL UNITS (Proposed Housing Grand Total - Existing Housing Grand Total):**

Please read the following checklist to make sure you have sent all the information in support of your proposal. Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the Local Planning Authority has been submitted.
The burden or proof in a Lawful Development Certificate is firmly with the applicant and therefore sufficient and precise information should be provided.

3 copies of a completed dated application form: ☑

3 copies of such evidence verifying the information included in the application as you can provide: ☑

3 copies of a plan which identifies the land to which the application relates drawn to an identified scale and showing the direction of North: ☑

The correct fee: ☑

## 12. Declaration

I/we hereby apply for a Lawful Development Certificate as described in this form and the accompanying plans/drawings and additional information.

Signed - Applicant

Or signed - Agent

Date (DD/MM/YYYY): 28·5·08 (date cannot be pre-application submission)

WARNING:
The amended section 194 of the 1990 Act provides that it is an offence to furnish false or misleading information or to withhold material information with intent to deceive. Section 193(7) enables the Council to revoke, at any time, a certificate they may have issued as a result of such false or misleading information.

## 13. Applicant Contact Details

Telephone numbers

Country code: National number: Extension number:

Country code: Mobile number (optional):

Country code: Fax number (optional):

Email address (optional):

## 14. Agent Contact Details

Telephone numbers

Country code: National number: 01538 308821 Extension number:

Country code: Mobile number (optional):

Country code: Fax number (optional): 01538 308822

Email address (optional): mike.wetcliffe@fiscali.co.uk

## 15. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land? ☐ Yes ☐ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? *(Please select only one)* ☑ Agent ☐ Applicant ☐ Other (if different from the agent/applicant's details)

If Other has been selected, please provide:

Contact name:

Telephone number:

Email address:

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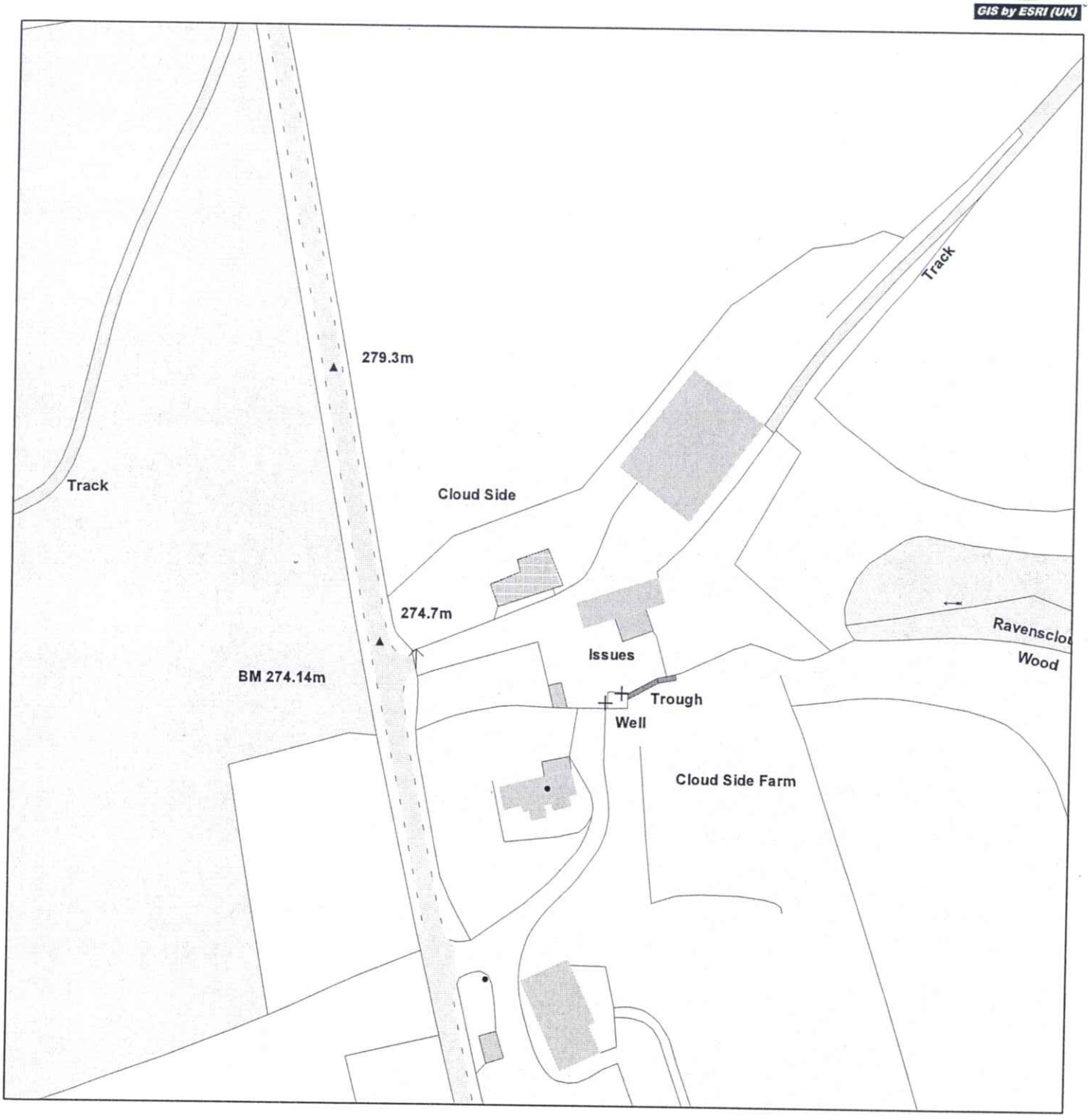
# 08/01084/CL_EXG

## Congleton




**Scale :** 1:1250

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| | |
|---|---|
| **Organisation** | Not Set |
| **Department** | Not Set |
| **Comments** | |
| **Date** | 02 June 2008 |
| **SLA Number** | Not Set |

*Produced using ESRI (UK)'s MapExplorer 2.0 - **http://www.esriuk.com***

# APPLICATION FOR LAWFUL DEVELOPMENT CERTIFICATE FOR AN EXISTING USE

AT

CLOUDSIDE(FARM) – RED LANE, CLOUDSIDE

BY

MR S & MRS K BAILEY

PLANNING STATEMENT

BY

MICHAEL SUTCLIFFE & ASSOCIATES
CHARTERED TOWN PLANNERS

28.05.08

SMDC
ENG

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4. History of Use

5. Programme of Works

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7. Agricultural Need

8. Assessment

9. Conclusion

Appendix 1 - Documentary evidence incorporating the Structural Survey

## 1. INTRODUCTION

This statement is prepared in support of the Application for a Lawful Development Certificate for Cloudside (Farm) as a residential property.

The case we wish to make relies on the fact that no abandonment of the residential use has occurred since the house was last lived in and also that re-occupation by the applicants is Sustainable in the context of the farming business of Simon Bailey and his father Roger, which is reliant on surrounding land and adjacent farm buildings.

This supporting statement makes extensive use of the comprehensive documentary evidence researched and compiled by the applicants and in addition the independent Structural Survey prepared by Opus Joynes Pike Ltd, also appended.

## 2. THE SITE (see Map 1)

Cloudside Farm House lies to the east of Red Lane from which it takes its access. It is south facing and is indicated edged red on Map 1 where its domestic curtilage is shown in blue. It is located centrally to the land farmed by the applicant and his father hatched green on the plan and the stock, feed and implement buildings are adjacent to the house and using the same access to Red Lane. Some of the agricultural buildings are contemporary with the house.

Immediately to the south of Cloudside (Farm) is the Cloudside Shooting Club and a number of dwellings on the western side of Red Lane.

The house is constructed of local sandstone blocks with a clay tile roof. It has the simple rectangular footprint of a moorland long house with the addition of a single storey outrigger at the rear, which formerly contained the kitchen and pantry. The property had an outside lavatory now demolished.

The house has the appearance of a largely 18th Century structure, although some internal features, such as infilled windows with chamfered mullions and a former bread oven suggest 17th Century origins.

It is clearly evident from the appended photographs that the property was designed and built as a house and for no other purpose, nor has it been converted or adapted to any other purpose.

## 3. ABANDONMENT

To establish that there is lawful existing use of the property for residential purposes it is central to our case that the period of vacancy from 1985 to the present day does not represent abandonment.

Case Law and Appeal decisions tell us that a number of tests have to be applied to determine if abandonment has taken place. These are:

- A deliberate intention to cease use
- Allowing deterioration to the extent that re-use would be tantamount to re-building
- The introduction of a different use supplementing that which went before
- The creation of a new planning unit or a new chapter in the planning history

The following section dealing with the History of Use, the programme of maintenance and repair and the structural survey demonstrates that the property justifies all the above tests nd that abandonment of residential use has not occurred.

## 4. HISTORY OF USE

The appended evidence makes it possible to identify two distinct periods in the recent history of the farmhouse, prior to 1985 with the house being continuously occupied and from 1985 to the present day when the house was vacant due to a number of real life events.

### i) Pre-1985

It is clear that from the evidence that before 1985 the farmhouse was lived in and the land (approx. 150 acres) was farmed by first Mr Tom Goodwin Senior and then Mr Tom Goodwin Junior. This is supported by witness statements which in one case dates back to 1931 (Mr A Chappels) and in another to 1943 (Mr & Mrs Needham).

Further evidence is submitted in Section 1 – 3 of the appendix, which refers to rate payments, income and land tax and bank statements from between 1940 and 1980 confirming residency by the Goodwin family.

## ii) Post-1985

In 1984, following the death of Tom Goodwin Jnr., the farmhouse, buildings and land were inherited by Mr Roger Bailey, the father and father-in-law of the applicants.

Mr Bailey's statement appended makes it very clear that it had been his intention to live in the farmhouse as the best means of managing the farm efficiently and improving animal welfare, bio-security and the protection of farm equipment.

This intention to reside at the farm is underlined by the continuous payment of Domestic Water and Electricity Bills and the submission and approval of a planning application to extend and modernise the house. Again this documentary evidence is appended in Sections 5 & 6.

Importantly Mr Bailey's statement also sets out the real life events and circumstances that deferred his intention to live at the farm.

These factors included 20 years of conflict about the extent of the nearby shooting club use,the extent of the modernisation and improvement works required to the house and the demands of developing the livestock farming business and resulting restricted time and finances.

As Mr Bailey senior is now approaching retirement age it is now more practical for his son, his partner in the farm, to live there and with this in mind the property was transferred to Simon and Kirstin Bailey in March 2008.

It is clear from this evidence that Mr Bailey had identified the benefits of living at the farm and had every intention to do so but real circumstances and practical considerations required deferral of the move. There is certainly no evidence of a deliberate intention to cease the residential use, in fact to the contrary, it is anticipated that his son will fulfil the intention to live at the farm.

## 5. PROGRAMME OF WORKS

When Mr Bailey Snr inherited Cloudside in 1985 the house, whilst generally sound structurally, had the defects due to neglected repair and the lack of amenities reflecting the poor and harsh living conditions of hill farms in past decades.

The property had an outside earth closet, only one cold tap with water being heated by range boiler. There was rising and penetrating damp and woodwork damaged by rot and infestation. Heating and circulation was substandard.

As a preliminary to renovation, Mr Bailey secured planning permission in 1985 for a two-storey rear extension to form a kitchen, porch and downstairs w.c. and a bedroom and bathroom over.

Although this was not fully implemented and has now lapsed, it does confirm a firm intent to make the house habitable in modern terms.

Other works were completed and there is a very full photographic and documentary record supported by witness statements of the extensive work undertaken.

These works include:-

- Roof replacement 1990
- Excavation of ground at rear to reduce damp and prepare for extension
- Septic tank installed 1990
- Repairs to internal chimney stack
- Removal of old plaster
- Temporary windows installed to repel weather

One witness, Mr Chappels, a joiner, refers to working in the house himself and assisting with general repairs and overall maintenance.

This extensive and thoroughly documented and witnessed list of work, clearly emphasises a wish to prevent deterioration and make the premises habitable and argues strongly against any claims of abandonment.

The programme of work is still underway today and the record since 1985 shows that no intervening and different uses were introduced when active renovation was temporarily at a halt.

## 6. STRUCTURAL SURVEY

In order to reassure the L.P.A. that the farmhouse is not ruinous and would require unacceptable levels of demolition and rebuilding, the applicants employed a company of independent structural engineers, Opus Joynes Pike to prepare a structural survey; this is appended at Section 13.

Importantly whilst listing further works required to meet current building regulations it is concluded that

'whilst the structural envelope requires some work to make the building usable, the building is not ruinous and is suitable for renovation without whole scale demolition'

This further emphasises that deterioration that would lead to rebuilding has been prevented.

At this point we ask the L.P.A. to note that subject to the successful outcome of this application it is the intention to re-apply for the rear extension having regard particularly to Local Plan Policy H13 (A), (B) & (E).

## 7. AGRICULTURAL NEED

The farmhouse is located centrally within the 150 acre holding and adjacent to the farm buildings. Since 1985 this sheep farm has developed into a successful and well-regarded enterprise and further improvements and growth will be aided by the house being occupied.

Both Mr Bailey and his son in their statements list these benefits as follows:

- reduced commuting to the holding thereby increasing sustainability
- improved security for farm equipment
- improved bio-security
- improvement to efficiency and animal welfare and overall management

This is a full time farming enterprise and the stock levels listed in Simon Bailey's statement confirm this.

## 8. ASSESSMENT

This application for a Certificate of Lawfulness for an existing use is accompanied by the most comprehensive survey, documentary and photographic evidence and number of witness statements that I have experienced.

The property is clearly a house that was continually occupied up to 1984 and since then has undergone a programme of repair still underway. There has been no intervening use and no new chapter in the property's history.

It does not require extensive demolition and rebuilding and the owners by their work have shown a clear intent to make the property habitable and to live there.

Based on all the evidence there has been no abandonment of the residential use.

Additional supporting arguments for the application are the benefits living on site will have for the farm business and therefore the local economy. Occupation of the farmhouse is also more sustainable than commuting.

We also emphasise that occupation will conserve a traditional farmhouse and if this application fails, a modern farm workers dwelling would be justified, since there is no other accommodation on the holding.

## 9. CONCLUSION

Because of the strength of the supporting evidence for continuous residential use, we consider the existing use as a house is lawful and we ask the L.P.A. to confirm this by approving this application.

**M. SUTCLIFFE**
**29.05.08**