

Rob Duncan
Planning
Consultancy



PLANNING STATEMENT

The Beeches, High Street, Caverswall

October 2015

Site Address:

The Beeches, High Street, Caverswall, Staffordshire, ST11 9EF

Applicant:

Mr. M. Kilgariff

Proposal:

Lawful Development Certificate for Existing Use:
Use of existing building as residential annex

Planning Statement:

Date Issued: 22nd October 2015

Job Reference: RDP/2015/135

Report Prepared By:

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1. Introduction

1.1 Rob Duncan Planning Consultancy Ltd. has been instructed by Mr. M. Kilgariff to prepare a Planning Statement to accompany an application under s191 of the Town and Country Planning Act 1990 (As Amended) which seeks confirmation that an existing outbuilding at The Beeches, High Street, Caverswall has been occupied as a residential annex to the main dwelling for a period in excess of ten years and is therefore lawful.

1.2 The application represents a re-submission following the refusal of application SMD/2015/0417 which had sought a Lawful Development Certificate to demonstrate that the building had been used as an independent dwelling for a period in excess of 10 years. It was refused under delegated authority for the following reason:

1. The Council considers that the application does not provide sufficient information or evidence to demonstrate that on the balance of probabilities the outbuilding was used continually for a period of ten years as a separate unit of accommodation (within the C3 Use Class in the Town and Country Planning (Use Classes)(Amendment)(England) Order 2015) to the main dwelling at The Beeches, Roughcote Lane, Caverswall. Therefore, the use of the building for this purpose is not deemed to be lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended).

1.3 This Planning Statement and its associated appendices seek to demonstrate a precise and unambiguous set of evidence to support the case that the use of the existing building as an residential annex is lawful.

2 The Site

- 2.1 The application site comprises a detached outbuilding that lies across a courtyard from the main dwelling which was established itself as a dwelling in the late 1990s (The Beeches). The building is constructed from brickwork and has a traditional Staffordshire Blue clay tile roof, and has an attached metal clad structure, although that does not form part of the application site for the purposes of this Lawful Development Certificate. At ground floor the accommodation comprises a lounge, and garage store with internal staircase leading up to a bedroom, kitchen, study and bathroom at first floor.

3 The Proposal

- 3.1 This Lawful Development Certificate seeks confirmation that:

- 1) The outbuilding has been occupied as a residential annex more or less continuously for a period in excess of 10 years and is therefore lawful.

4 Statement of Case

- 4.1 Paragraph 006 of the Planning Practice Guidance relates to Lawful Development Certificates and confirms that an applicant is responsible for providing sufficient information to support an application. It goes on to state that if a local planning authority has no evidence itself or 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.

4.2 The previously submitted application had sought to demonstrate that the building had been occupied as an independent dwelling for a period in excess of 10 years, but the Local Authority felt the evidence submitted to did not demonstrate that was the case. This revised submission acknowledges the views of the Local Authority, and seeks to demonstrate that the building has been used as a residential annex for a period in excess of 10 years.

4.3 The application is accompanied as before by three sworn affidavits:

1. Affidavit of Mr. Matthew Kilgariff (Applicant). Copy enclosed as Appendix A.
2. Affidavit of Mr. Edwin Kilgariff (Applicant's Father and occupier of The Beeches). Copy enclosed as Appendix B.
3. Affidavit of Mrs. Sandra Kilgariff (Applicant's Mother and occupier of The Beeches). Copy enclosed as Appendix C.

4.4 The affidavit of Matthew Kilgariff (Appendix A), confirms that the building the subject of the application was renovated prior of the end of the year 2000. It was also connected to the mains water supply, electricity and mains drainage, again by the end of year 2000. The building was subsequently utilised by the family for washing, showering and for the storage of household belongings whilst works were ongoing to complete the conversion of the main barn into a dwelling (now known as The Beeches).

5

5.1 The affidavit confirms that the works to create the main dwelling were completed in 2001 and that from that period onwards the applicant occupied the building for domestic purposes. The affidavit notes that the building provided washroom facilities, a kitchen, sleeping quarters and a lounge area

and confirms that he occupied the building primarily because the new dwelling (The Beeches) had limited space.

5.2 The sworn affidavit prepared by Matthew Kilgariff is continued to constitute a substantial piece of evidence in support of a Lawful Development Certificate being awarded. He has an intimate knowledge of the site and is thus best placed to comment on this matter, and confirms that he himself has occupied the building for residential purposes since 2001 up until 2015. I would submit that this piece of evidence alone serves to demonstrate beyond the balance of probability that the use of the building as a residential annex is lawful.

5.3 The comments made by Matthew Kilgariff are nevertheless supported and reinforced by the sworn statements prepared by his parents, Edwin Kilgariff and Sandra Kilgariff (Appendices B and C respectively). Their statements confirm the same facts regarding the conversion of the outbuilding, and go on to state that following the completion of the main dwelling in 2001, the building continued to be used for domestic purposes by a family member (son) and is still frequently used as an annex to the main dwelling with sleeping, office and lounge facilities. The accompanying photographs enclosed as Appendix A furthermore serve to corroborate the fact that the building was converted for residential purposes by 2002 and that the corrugated steel sheet structure referred to within the three affidavits was in situ by 2002.

5.4 The Local Authority would appear to agree that the building has been occupied as a residential annex having regard to the delegated report that accompanied the previous application, where it was commented by the planning officer that:

“Furthermore, the original affidavits and information appears to refer to the use of the building as more of an annex to the main house rather than a separate dwelling. It has been occupied by a relative who although has access to kitchen and bathroom facilities within the outbuilding, occasionally uses the main dwelling to socialise”

- 5.5 A residential annex is accommodation used in a manner ancillary to the main dwelling. Usually this entails being located within the same planning unit as the main dwelling, being occupied by a family member/dependant or employee, and sharing the same garden and driveway as the main dwelling. Whilst the building encompasses accommodation that is self-contained, and thus could potentially be occupied in a manner that is independent of the main dwelling, it lies within the established curtilage of the main dwelling, and the building has been occupied by someone with a personal connection with the main dwelling (son). The building furthermore shares the same amenity areas, parking and driveway as the main dwelling, and has no separate boundary demarcations. The building is also connected to the same electric supply, waste-water drainage system, and clean water drinking supply as the main dwelling, and does not have separate utility bills to the main house. As a consequence I submit that it fulfils the definition of a residential annex.

6 Conclusion

- 6.1 I submit that the evidence presented in the Statement of Case above and within the accompanying Appendices, taken as a whole, constitutes a more or less continuous chain of evidence that is sufficiently precise and unambiguous to justify the grant of a Lawful Development Certificate.

6.2 The sworn affidavits demonstrate beyond the balance of probability that the building has been occupied more or less continuously as a residential annex for a period in excess of 10 years. I therefore consider that its use for such purposes is now immune from enforcement action by the Local Authority.

6.3 The Local Authority is therefore respectfully requested to grant a Lawful Development Certificate in this regard.

7 List of Appendices

- Appendix A – Sworn Affidavit of Matthew Kilgariff
- Appendix B – Sworn Affidavit of Edwin Kilgariff
- Appendix C – Sworn Affidavit of Sandra Kilgariff
- Appendix D – Photographs of Building