

# **PLANNING STATEMENT**

**MARSHFIELD GATE FARM  
GILLOW HEATH**

**NOVEMBER 2015**

**Site Address:**

Marshfield Gate Farm, Marshfield Lane, Gillow Heath,  
Staffordshire, ST8 6RG

**Applicant:**

Mr. M. Stanmore

**Proposal:**

Lawful Development Certificate for Existing Use:  
Use of land for residential purposes

**Planning Statement:**

**Date Issued:** 24<sup>th</sup> November 2015

**Job Reference:** RDP/2015/083

**Report Prepared By:**

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## **1. Introduction**

- 1.1 Rob Duncan Planning Consultancy has been instructed by Mr. M. Stanmore to submit an application under s191 of the Town and Country Planning Act 1990 (As Amended) to seek confirmation that a parcel of land at Marshfield Gate Farm, Marshfield Lane, Gillow Heath has been used more or less continuously for residential use for a period in excess of 10 years from the date of the breach occurring and is therefore lawful.
- 1.2 Paragraph 006 of the Planning Practice Guidance confirms that an applicant is responsible for providing sufficient information to support an application, and that 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, then there is no good reason to refuse the application. This is provided that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
- 1.3 This Planning Statement sets out the background to this case and provides a precise and unambiguous set of evidence to support the case that the use is lawful.

## **2 The Site**

- 2.1 The application site lies on the southern side of Marshfield Lane, a short distance to the north west of the main built up area of Gillow Heath. The site comprises a detached farmhouse and an associated detached outbuilding, along with a cluster of agricultural buildings to its east. A central vehicular access feeds off Marshfield Lane providing access to the agricultural buildings and to the parcel of land which is subject of this application. The parcel of land the subject of this Lawful Development Certificate lies towards the

southernmost end of the site, and is bordered to the east by the agricultural outbuildings, and to the west by the rear garden of the farmhouse.

### **3 The Proposal**

3.1 This Lawful Development Certificate seeks confirmation that:

- 1) The parcel of land outlined in red on the submitted Site Location Plan has been used more or less continuously for residential purposes for a period in excess of 10 years from the date of the breach and is therefore lawful.

### **4 Statement of Case**

4.1 The application site forms part of the Marshfield Gate Farm complex of buildings and is owned by the applicant Mr. Michael Stanmore. Until recently a detached double garage and flowerbed had occupied the parcel of land. The garage and flowerbed were demolished / removed in May 2014 in order to enable the erection of a replacement garage. The Local Authority investigated the matter and considered that the works did not amount to permitted development, as the parcel of land did not form part of the residential curtilage. This Lawful Development Certificate submission seeks to demonstrate that the land has indeed been used for over 10 years for residential purposes and thus is now lawful.

4.2 The application is accompanied by a number of pieces of evidence which are listed below:

- Sworn Statement of Michael Frederick Stanmore (owner/applicant)
- Sworn Statement of Roger Selwood (previous owner)

- Aerial photographs (Google Earth - 2005, 2006, 2007)
- Photograph of previous detached garage and raised flowerbed (Summer 2013 provided by applicant)
- Photograph of previous detached garage and raised flowerbed (extract from Google Street View September 2010)

4.3 The sworn statement of Roger Selwood (enclosed as Appendix A) confirms that he owned the property of Marshfield Gate Farm (of which the application site forms part) between November 1990 and June 2013. He confirms that he constructed the detached double garage and raised flowerbed in 2003 and that the detached double garage was utilised by his family and himself for the parking of vehicles throughout the time he lived at the property. He further confirms that his family and himself tended to the raised flowerbed throughout the time he lived at the property, and that it was planted up with flowers and plants. The sworn statement confirms this, stating that the land outlined in red on the accompanying Site Location Plan (within which the detached garage and raised flowerbed are located) was used by himself for domestic/residential purposes since 2003 until they sold the property in June 2013 to Michael Stanmore, and was not to his knowledge used for any purposes other than residential use.

4.4 As the previous owner and occupier of Marshfield Gate Farm, Roger Selwood has an intimate knowledge of the site and is therefore well placed to set out the facts regarding the use of this particular parcel of land. The comments made by Roger Selwood have furthermore been sworn on oath and as such constitute a piece of evidence worthy of significant weight that indisputably demonstrates that the parcel of land has been used for residential purposes

for a period of more than 10 years following the breach of control taking place.

4.5 These conclusions are reinforced by the aerial photographs enclosed as Appendix B which clearly show the presence of the detached garage and flowerbed on the site between 2005 and 2007. Whilst these aerial photographs are only fixed moments in time, they serve to corroborate the fact that facts set out by Roger Selwood in his sworn statement that a building was in situ on the site at that time.

4.6 In addition to the above, a sworn statement has also been provided by Michael Stanmore who is the current owner of the site and the applicant. He too has an intimate knowledge of the site and as such is well placed to set out the facts regarding this matter.

4.7 In his sworn statement (enclosed as Appendix C) Michael Stanmore confirms that he has lived at Marshfield Gate Farm since the 4<sup>th</sup> June 2013. He re-affirms that the detached double garage and raised flowerbed was constructed in 2003 and confirms that the detached garage was used by himself and his family for the parking of domestic vehicles and storage of domestic items such as lawn mowers, kids toys and bikes until it was demolished in May 2014. He furthermore confirms that the raised flowerbed was tended to by his family and himself and planted up with flowers and plants until it too was removed in May 2014 to facilitate the construction of a new detached garage.

4.8 The sworn statement goes on to confirm that the residential use of the parcel of land did not cease being used for residential purposes as he continued to use the parcel of land for the parking of his domestic vehicles after the garage was demolished and prior to him commencing construction on the

new garage which he believed was permitted development. He also goes on to state that the parcel of land has never to his knowledge been used for any purposes other than residential use.

- 4.9 To corroborate the above the applicant has also provided a photograph of the detached garage and raised flowerbed that was taken in the summer of 2013, not long after he purchased the site from Roger Selwood (see Appendix D). This photograph serves to corroborate the fact that the building and flowerbed referred to and described within the sworn statements were in existence in the summer of 2013 and shows the applicant's car parked in front of the garage.

Figure 1 – Extract from Google Street View



Source: Google Street View

- 4.10 Further corroborative evidence in support of this submission is provided by a photograph of the site extracted from Google Street View (see Figure 1). The image shown dates from September 2010 and clearly shows the presence of

the detached double garage on the site, alongside the raised flowerbed. This piece of evidence therefore lends further weight to the applicant's case for the Lawful Development Certificate to be granted, with the use of this parcel of land described within the sworn statements.

4.11 The Local Authority had expressed comments during enforcement investigations that because the detached garage had been demolished, the residential use may have ceased. However, I respectfully disagree. Whilst the demolition of the garage would prevent the issuing of a Lawful Development Certificate pertaining to operational development, the submitted application relates to the use of the land for residential purposes.

4.12 Section 171B(3) of the Town and Country Planning Act 1990 (As Amended) confirms that in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years *beginning with the date of the breach* (my emphasis). The section is silent on any requirement for continuation of the use, and indeed this would be consistent with the definition of development in section 56(1)b of the Act which confirms that the time when the development is begun is the time when a new use is instituted. The submitted evidence demonstrates that the breach of planning control (change of use from agricultural residential use) occurred in April 2003 and subsequently continued for a period in excess of 10 years. The use of this parcel of land as residential purposes is therefore lawful. The fact that the detached garage and flowerbed have subsequently been removed to facilitate the construction of a new detached garage has no effect in terms of the lawfulness of the use of the land.



## **5 Conclusion**

- 5.1 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.
- 5.2 The sworn statements in particular are considered to constitute substantive and weighty pieces of evidence to corroborate the applicant's own version of events and demonstrates beyond the balance of probability that the parcel of land has been used more or less continuously for residential purposes for a period in excess of 10 years from the commencement of the breach. I therefore consider that the residential use of the land is now immune from enforcement action by the Local Authority. There is furthermore no known evidence to contradict or otherwise make the applicant's version of events less than probable. The Local Authority is therefore respectfully requested to grant a Lawful Development Certificate in this regard.

## **6 List of Appendices**

- Appendix A – Sworn Statement of Roger Selwood
- Appendix B – Aerial Photographs from Google Earth
- Appendix C – Sworn Statement of Michael Stanmore
- Appendix D – Photograph provided by applicant