



PLANNING STATEMENT

In relation to an Application for a Certificate of Lawfulness for the Existing extent of the domestic garden/curtilage at:

**High Up Farm,
High Up Lane,
Poolend,
Leek,
Staffordshire Moorlands
ST13 8SD**

Applicant: **Mr & Mrs Neilson**

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Ref: Neilson/CLEUDcurtilage/DC

This document supports a planning application submitted to Staffordshire Moorlands District Council via the online Planning Portal.

PLANNING STATEMENT

This Planning Statement supports an application for a Certificate of Lawfulness of an Existing Use or Development (CLEUD) at High Up Farm, High Up Lane, Leek. The existing use seeking certification is the use of land as domestic garden in accordance with the Block Plan submitted with this application.

This application follows a previous application for certificate of lawfulness for a proposed ancillary domestic outbuilding to be used as a biomass building [application ref: SMD/2016/0382].

That application was refused due to the extent of the domestic curtilage (garden) being different to that shown on the planning permission for the replacement dwelling that was approved in 2002, therefore although it was agreed that the proposed building complied with the permitted development criteria, it was not clear that the actual extent of the domestic curtilage as shown in the documents (identical to that existing on the ground) was lawful; and therefore the proposed building may not have been within the lawful domestic curtilage.

A body of evidence was provided showing that the extent of the domestic curtilage (specifically the garden boundary fence) had been in place for a period in excess of 10 years; including dated aerial photography, dated photographs of the fence being installed, dated receipts for the fencing materials and tools, and dated receipts for lawn turf. Also provided was a signed and witnessed Statutory Declaration from the applicant confirming the relevant dates and the use of this area as garden.

This evidence was sufficient on its own to show that the extent of the domestic curtilage is lawful, and therefore the proposed building also, so the certificate for the biomass building could lawfully have been issued. However the LPA refused the application; presumably in order to harvest additional fee income from a separate application for a certificate of lawfulness for the extent of the domestic curtilage.

This application therefore seeks a certificate of lawfulness for the extent of the domestic curtilage, after which the application for the biomass building will be resubmitted under the “free go” and should be approved.

CURRENT SITUATION

The current extent of the domestic curtilage (garden) is defined by a timber post & rail fence. The Google aerial photography shows the fence as being in exactly the same position in 2006 that it is now, and as shown on the submitted Block Plan in 2016.

There is an existing hardcore access track in the field to the north of the farmhouse that encloses the domestic curtilage to the north and east, and can be seen on the Google aerial imagery dating back to 2003. This track forms an obvious natural boundary to the garden and therefore the domestic

curtilage of the farmhouse. It is clear why a garden fence would have been erected in the location that it has been, to provide separation from this track and define the garden boundary in order to provide suitable outdoor amenity space for a household with a young family.

EVIDENCE

The evidence submitted consists of the following documents:

“Overlay plans and aerial images”, a multiple page pdf showing aerial photography from 2003 and 2006, as well as an overlay of the current Block Plan showing that it corresponds with the actual situation on the ground.

4 receipts from “Jacksons Fine Fencing” for the materials used to erect the garden boundary fence, that are addressed and dated 25th and 26th of May 2006

Receipt from Blakemore & Chell (Leek) for a “Post Hole Digger” dated 27th May 2006

A receipt from Congleton Lawn Turf Ltd. for “350 square metres, delivered” to Mr Neilson at High Up Farm, dated 21st July 2006

A pdf document “Fencing HUF with download date” showing photographs of the fencing being installed as well as mostly completed at High Up Farm, with a screenshot showing the download date of the photographs as 13th June 2006 [taken from the applicant’s old computer]

A Statutory Declaration signed by the applicant and witnessed by a Solicitor, confirming all of the relevant dates and that the garden area has been in continuous use since moving into the replacement dwelling in November 2004 as well as erecting the garden boundary fence in 2006.

CONCLUSION

Given the indisputable evidence provided with this application, the applicant respectfully requests that a Certificate of Lawfulness be issued for the extent of the domestic curtilage (Garden boundary) as shown on the submitted plans.

The applicant would greatly appreciate the opportunity to provide any further information or clarification that is required during the consideration of the application, prior to determination.

If any further information or explanation is required please contact
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