DELEGATED DECISION REPORT

SMD/2016/0443 **Valid 19/07/2016**	**NEWFOLD FARM SYTCH ROAD** **BROWN EDGE**	**APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR AN EXISTING USE B8 - STORAGE OR DISTRIBUTION** **(CERTIFICATE OF LAWFULNESS - EXISTING)**

MAIN ISSUES

- Whether or not on the balance of probabilities the buildings were used as storage for a builders business for a continual period of ten years on the basis of the evidence provided by the applicant.

DESCRIPTION OF SITE

The site is in the Green Belt and comprises two single-storey storage buildings forming part of a farm, Newfold Farm, on the edge of the village and which lies to the west of Sytch Road. Both were previously used for farm storage purposes. The development boundary of Brown Edge runs along the road and there are nearby houses to the other side of the road and to the south of the farm. One of the storage buildings lies to the north-west of the farmhouse and the other is a smaller building which lies to the south-west of the farmhouse. There are other farm buildings nearby. The open land connected to the farm lies to the north and west of the farm building complex.

PROPOSAL

The application is for a Certificate of Lawfulness for the existing use of two buildings for storage purposes in connection with the owner's builders business which is also based at the farm. Under planning legislation, if the applicants can demonstrate evidence that the change of use of the buildings from agriculture to a builders business (a "Sui Generis" use) which would normally require planning permission, has been present for more than ten years then the works would be deemed to be lawful (and would therefore also not require a retrospective full planning application). This is because under Section 171 and Section 191 of the Town and Country Planning Act 1990, breaches of planning control for this continual length of time become exempt from enforcement action and therefore the use of buildings therefore becomes lawful. Although the onus is on the applicant to demonstrate that the use has been occurring continually for more than ten years on the basis of the provided evidence, if the Council considers on "the balance of probabilities" that the breach did occur and have been in existence continually for this amount of time, then the Certificate can be issued i.e. the builders business storage use of the buildings is lawful.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Core Strategy Development Plan Document (Adopted 2014)

N/A

National Planning Policy Framework

N/A

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None.

CONSULTATIONS

Publicity

Site Notice expiry date: 24.8.16
Neighbour consultation period ends: 15.8.16
Press Advert: N/A

Public Comments

None.

Town / Parish Comments

No objection.

OFFICER COMMENTS

The evidence provided by the applicant includes a statutory declaration from the applicant which states he has owned the land since 1992 and that since March 1997 the buildings had been used "for commercial purposes in the form of a building company" trading as Bourne and Slater and that the building has not been put to any other use since the commercial use commenced. It also states a Goods Vehicle Operator's Licence has been in force since 1998 and is subject to review in 2018 (this is also enclosed in the application).

Further information was submitted by the applicant which includes invoices from Bourne & Slater (with the address of Newfold Farm) to customers (dates between October 2006 to May 2016), tax return forms between the years of 2007 and 2015 and Membership of FMB letters for 2007 and 2009. There is also evidence of a limited company called Bourne & Slater Ltd operating from Newfold Farm on the Companies House website although this ceased in 1999 (this does not give evidence that trading did not continue however).

When I visited the site, the larger of the two buildings had a significant amount of building materials and scaffolding inside and there was also a truck and mini-digger. Although it could be questioned whether or not these were in fact used for agricultural purposes in connection of the farm, farming had ceased on the site in 2009 (and there was no evidence of any farming, current or recent, when I visited the site). Inside the smaller building (to the south-west of the farmhouse), there was two domestic vehicles parked in the front part and there were building materials and equipment (including a cement mixer) in the rear.

Although a 'B8 Use' was applied for (i.e. storage and distribution for a building company), the agent has accepted that the specific use of the buildings is more accurately, storage for builders materials and equipment in connection with the business and is therefore a sui generis use and not B8.

CONCLUSION / PLANNING BALANCE

To conclude, I consider that on the balance of probabilities and on the basis of the above, the two structures (despite part of the smaller one recently being used for car parking in connection with the farmhouse) have been used for a continual period of ten years (and are still being used) for storage purposes in connection with a builders business operating from Newfold Farm. The buildings therefore become exempt from Planning Enforcement action and are the use therefore becomes lawful under the above legislation. The Certificate of Lawfulness can therefore be issued.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Chris Johnston
Recommendation Date: 9.12.16

X B.J. Haywood

Signed by: Haywood, Ben

On behalf of Staffordshire Moorlands District Council