DELEGATED DECISION REPORT

SMD/2017/0422 **Valid 27/06/2017**	**STABLE COTTAGE EAVES LANE** **CHEADLE**	**CERTIFICATE OF EXISTING USE - THE CONTINUOUS AND UNINTERRUPTED BREACH OF CONDITION NUMBER 2: "THE OCCUPATION OF THE DWELLING SHALL BE RESTRICTED TO A PERSON EMPLOYED FULL-TIME IN CONNECTION WITH THE RIDING SCHOOL AND THE DEPENDANTS OF ANY SUCHPERSON" ON APPLICATION REFERENCE 85/14412, FOR A PERIOD IN EXCESS OF 10 YEARS** **(CERTIFICATE OF LAWFULNESS - EXISTING)**

MAIN ISSUES

The application is for a Certificate of Lawfulness relating to a breach of an occupancy condition which can only be granted in the circumstances where the breach (on the date of the application) can be considered to have a lawful status that is immune from enforcement action. A breach of condition can be lawful through the passage of time (a 10 year continuous period). The application is to be decided on the basis of a legal determination with only consideration of evidence relating to either of those factors.

The report will set out the following considerations:

- Is the occupancy condition currently breached?
- Has that breach taken place continuously for at least 10 years prior to the date of the application?

DESCRIPTION OF SITE

Converted stable building that now with planning permission has provided a two storey dwelling since 1985. The cottage is to the rear of a Riding School/manege and a range of stable buildings surrounded by Green Belt grazing land.

APPLICATION

Planning permission was approved 18th November 1985 for "Conversion of stables (Ground Floor) to provide lounge and dining room as an extension to existing first floor flat at the Cheadle Equestrian Centre, Eaves Lane, Cheadle, for Mr. J. H. Clark. Application reference SM/14412 (85/14412/OLDDC) or [SMD/1985/0143]. Condition 2 of the 1985 permission reads as follows:

"The occupation of the dwelling, the subject of this application, shall be restricted to a person employed full-time in connection with the Riding School and the dependants of any such person".
Reason:- As permission in this instance has been granted in the particular circumstances relating to the Riding School.

The current occupants and applicants say that they are currently breaching the occupancy condition and have been since their purchase in 2005.

They make two points:

- The business changed to livery when they bought the premises and they do not offer riding lessons for persons who do not have their own horse as such there has not been a 'riding school' at the premises during their occupancy.

- The Equestrian business has not been the prime source of income, Mr. Cooke's Security Control business has been his source of full time employment and household income.

They have submitted letters from clients and customers confirming that the business does not offer riding lessons and also business accounts for the Equestrian Centre and the Security Control Business to show that Mr. Cooke's business by far out performs the equestrian centre which it is said has been operating at a loss,

CONSULTATIONS

Publicity

Nei**ghbours have been notified in writing**

OFFICER COMMENTS

The condition reads as follows:

"The occupation of the dwelling, the subject of this application, shall be restricted to a person employed full-time in connection with the Riding School and the dependants of any such person".

I dismiss the first of the applicant's propositions.

The Condition does not require the dwelling to be occupied specifically by a riding instructor or even by somebody whose full time employment connected to the

provision of riding instructions or lessons. Their full time employment must however be *in connection* with the Riding School. As a matter of fact there is a riding school on site and it is available for hire and to livery customers it has been and, apparently, still is available for hire, practice, training, instruction etc –a screen shot from the website describes the facility as such. The equestrian centre business in general therefore has a connection with the Riding School, the hire and use of which form part of the business operation. A person engaged in the running of the equestrian business has employment that logically, is connected to the Riding School. While I accept the business model has been varied since the previous owners, I can not see there is any mileage in trying to disassociate the business and form of employment entirely from the Riding School and the commercial use of it, because the website evidence contradicts that.

Mrs. Cooke has only or mainly been employed, primarily because Mr. Cooke has the control systems business, in the administration and operation of the livery/equestrian business, and evidently some part of that business has been the provision of riding school facility. As such, Mrs Cooke has been complying with the condition because her employment has been connected to the Riding School that is onsite. Mrs. Cooke therefore has been complying with the condition.

However, the terms of the condition seek to *restrict* and *limit* occupancy to *only* a person full time employed in connection with the Riding School and a dependent of that person. Therefore an occupant of the dwelling who was not employed in the equestrian business, was employed in some other business and is not a dependent of the equestrian business would be breaching the condition. When the planning permission was granted and the condition drafted it does appear to have been the assumption that the equestrian/riding school business would be economically viable, the main source of household income and that any other occupant would naturally be a dependent of the person employed in the equestrian business. It did not allow for a more flexible or varied household arrangement like that of the applicants and to that extent I think that Mr. Cooke has been breaching the condition because his full time employment has not been in the equestrian business and, without it being necessary to drill too deeply into the accounts, I don't think he could reasonably, with any interpretation, be described as or classed as a dependent of Mrs. Cooke.

Buying and moving to Cheadle Equestrian Centre was very much a lifestyle choice because Mrs Cook had a passion for horses, this was the reason that a loss making business was tolerated because it could be underwritten by Mr Cooks business providing the financial stability and security required to live a lifestyle with horses.
The equestrian business did nothing to support the household, this was entirely supported by Mr Cook's business.

Peter Cook Control Systems was Mr. Cook's business and he worked full time running this business, working away a lot of the time as evidenced by mileage/travel in the accounts. Mr. Cook's business was in Industrial Automation all over the world. Providing training and writing specialist software for companies such as Coca Cola and McVities to operate their machines in making Coca Cola and Biscuits along with many other companies.

CONCLUSION / PLANNING BALANCE

My conclusion is that while Mrs. Cooke has continued to maintain ongoing business interest and employment in an equestrian business that had some connection with an onsite riding school, the condition effectively did not allow her husband to occupy the dwelling while he had his own different full time employment and was not a dependent of Mrs. Cooke. Therefore, Mr. Cooke has been breaching the strict wording of the condition since moving into the property for more than 10years to the extent now that the breach has become lawful and immune from action.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst
Recommendation Date: 25/08/2017

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council