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PLANNING STATEMENT



PROPOSAL : **CONTINUED USE OF DWELLING FOR GENERAL DOMESTIC PURPOSES IN BREACH OF AGRICULTURAL OCCUPANCY CONDITION OF PLANNING APPLICATION SMD/1982/0007 (82/11192/OLDDC)**

ADDRESS : **MILLHOUSE FARM, STATION ROAD, CHEDDLETON, STAFFORDSHIRE, ST13 7EE**

APPLICANT : **MR A BRUNT**

DATE : **DECEMBER 2017** **JOB No. : 2017-2261**

Registered in England No 3775545 V.A.T. Reg. No. 646 9246 05

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1.0 INTRODUCTION

1.1 Sammons Architectural Ltd have been appointed by Mr A Brunt to prepare and submit an application for a Lawful Development Certificate to Staffordshire Moorlands District Council to confirm that the bungalow at Millhouse Farm that was approved under planning application SMD/1982/0007 (82/11192/OLDDC) has been occupied in breach of the agricultural occupancy condition that would have been attached to the permission for a period in excess of 10 years. This statement has been prepared to accompany the application under s191 (1)(a) of the Town and Country Planning Act 1990 (As Amended).

1.2 The applicant of the planning application that was approved on 6th September 1982 was Mr T V Brunt who was the father of Mr G Brunt. Mr T V Brunt implemented the permission, thus safeguarding it from expiry. The extent of construction was limited to the external shell to make it weatherproof. The exact dates of this period of work are unknown due to the passage of time and persons involved being no longer with us. The internal works were not completed until 1998 (exact date unknown), which coincided with Mr G Brunt moving into the property with his wife. Mr G Brunt was effectively the first occupier of the property in 1998, when the approved scheme was competed.

1.2 The building, subject of this application is identified of the submitted plans. This Planning Statement and the associated documents seek to demonstrate beyond reasonable doubt, evidence that supports the case and that the property and its curtilage has been occupied by a person not employed or last employed in agriculture and is therefore lawful and immune from enforcement action by the Local Authority.

2.0 SITE

2.1 The application property comprises of a bungalow and its associated curtilage. The property was approved as a farmworkers dwelling. The property is itself located in the open countryside on land designated as Green belt.

3.0 PROPOSAL

3.1 This Lawful Development Certificate seeks confirmation that:

- The property has been occupied as a domestic dwelling for a period in excess of 10 years by a person that wasn't employed or last employed in agriculture and as such is lawful by virtue of time.

4.0 SUMMARY

4.1 Section 191(2) of the Act says that the use will be lawful if no enforcement action can be taken against it, and provided it does not contravene the requirements of any enforcement notice that is in force. Where an LDC is sought, the burden of proving relevant facts rests with the applicant.

4.2 Section 191(4) of the Town and Country Planning Act 1990 (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application was lawful at the time of the application, they shall issue a certificate to that effect; and in any other case shall refuse the application.

4.3 For the avoidance of doubt, this means that the planning merits of the proposed development are not relevant to this application. Accordingly, it is necessary to consider whether, on the balance of probability, the building has been used in breach of a condition that would have sought to restrict the use of the dwelling to someone who was employed or last employed in agriculture for a continuous period of ten years or more prior to the date of the application. In order to justify the certificate sought by Mr A Brunt, this application aims to prove that the continued use of the property started over ten years ago before the date of the certificate application and continued during that period. The standard of proof required is the 'balance of probability'.

4.4 It is also an accepted legal principle that if the Council have no evidence of their own, or from others, to contradict or otherwise make the appellant's version of events less than probable that lawfulness should be presumed provided the appellant's evidence alone is sufficiently precise and unambiguous to demonstrate this is the case on the balance of probability.

4.5 This submission seeks to demonstrate that the property and its curtilage identified on the site edged red were not occupied by persons employed or last employed in agriculture for a period in excess of 10 years ago and therefore is now lawful in the context of paragraph 171B of the Town and Country Planning Act 1990 (As Amended). The application is accompanied by the following evidence:

3 x General Affidavit's from:

1. Mr A Brunt
2. Mr J Reeves
3. Mr D Torr

4.4 The sworn affidavits confirm that the property was occupied by Mr G Brunt from 1998 until his passing in 2017. They also confirm that Mr G Brunt was not employed in agriculture and that he was a contract lorry driver and handyman until his retirement. The affidavits clearly explain how the property subject of this application has been occupied in breach of condition since 1998. Given that any person who lies about the information contained in an affidavit could be prosecuted for the crime of perjury, and if convicted may be ordered to pay significant fines or sentenced to time in jail, these documents carry significant weight.

4.5 The facts surrounding the application are that the property and its curtilage has been occupied by person(s) who were not employed or last employed in agriculture. This would have been a breach of condition that would have been applied to the original approval 82/11192/OLDDC.

4.6 It is acknowledged that there are gaps in setting out the case, particularly in respect of exact dates and the content of the original planning approval for application 82/11192/OLDDC. However, it is known that the property was applied for and approved on the basis that it would be occupied by someone employed or last employed in agriculture. There is limited information available on the Council's website to this respect. Unfortunately, the application would have been recorded on microfiche until recently and has now been scanned into a digital document. This digital record is of very poor quality with only small elements being visible, generally the record is now barely legible.

4.7 However, whilst the actual wording or the number of the condition is not known due to a copy of the decision notice being unavailable, what is known is that Mr G Brunt moved into the bungalow in 1998. At this time, he was the first inhabitant of the property and was not employed or last employed in agriculture as he was a contract lorry driver and handyman.

During his period of occupation, Mr G Brunt enjoyed a period of retirement until his passing earlier this year.

5.0 CONCLUSION

5.1 Section 171B(3) of the Act provides that in the case of any breach of planning control other than those specified in sections 171B(1) and (2), no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. It is considered that all of the evidence provided currently demonstrates that on the balance of probability, the breach of planning control through the occupier of the dwelling not being employed or last employed in agriculture that has continued uninterrupted for more than ten years, such that enforcement action may no longer be taken. Furthermore, it should be noted that no enforcement notice is currently in force. The lawfulness of the use can therefore be established by reference to the provisions of section 191(2) of the Act, set out previously.

5.2 The evidence provided to support this application is consistent and it is therefore with due respect that the Local Planning Authority is politely requested to grant a Lawful Development Certificate for Existing Development in this regard.