

DELEGATED DECISION REPORT

SMD/2021/0201
Valid 23/03/2021

CLAY LAKE FARM
BREACH ROAD
BROWN EDGE

**APPLICATION FOR LAWFUL
DEVELOPMENT CERTIFICATE
FOR PROPOSED DETACHED
GARAGE AND WORKSHOP**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

- Whether or not the proposal complies with GPDO(2015) Schedule 2 Part 1 Class E - buildings etc incidental to the enjoyment of a dwellinghouse

DESCRIPTION OF SITE

Clay Lake Farm is a 20th C post war development and appears to have been developed following a 1968 consent for “erection of a single storey dwelling to replace present farm house at Clay Lake Farm, Breach Road, Brown Edge for Mr A W Mountford” under planning reference 3563/63.T.

Reference to replacing the “present farm house” is not fully explained in the planning and OS map history as there doesn’t appear to have been a dwelling / farm house prior to c.1940. It may be presumed that perhaps there was a post war farm house which was then replaced by the post 1968 bungalow.

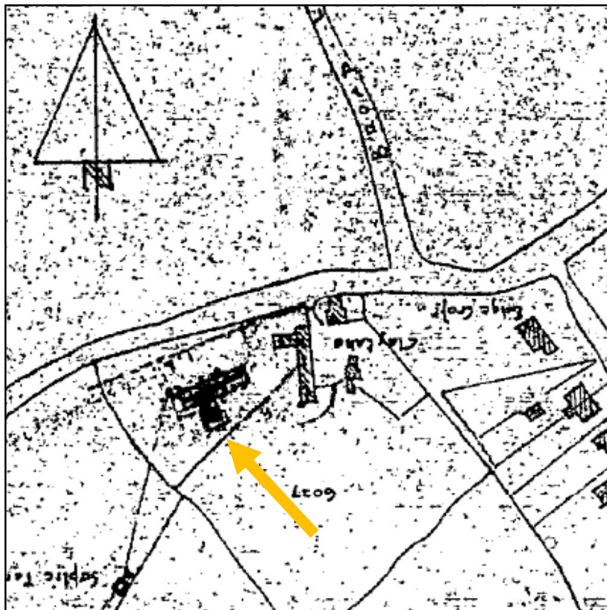


Fig.1

Figure 1 above is an extract from the plan found to accompany the 1968 permission. The arrow has been added to identify what appears to be the approved development and this building position corresponds more-or-less with the more forward (northerly) of the buildings now extant on the site. The north-south linear building to the right is a long-present structure which is now (and may always have been) an outbuilding forming part of the adjacent 'Clay Lake Farm House', a Grade II Listed Building. It is not in the ownership of the application property.

PROPOSAL

The proposal is described as the erection of a detached garage and work shop. In the submitted plans this is shown as being 16.4m in length x 6.5m with a dual pitched roof to ridge height of 3.995m and an eaves height (measured by the LPA in accordance with the Technical Guidance) as c. 2.6m. The eaves height has subsequently been amended in a replacement plan (NM-01A) bringing it down to not higher than 2.5m at the eaves.

The building is shown in the proposal to be aligned north-south in parallel with the west elevation of the neighbouring out-building associated with Clay Lake Farm as referred to in the site description above. The proposal building is shown to be set away from the adjacent building and property boundary by c.2.4m.

The proposed building position has been laid out so that its most northerly point closest to the site frontage and Breach Road would coincide with a line drawn in continuation of the most forward front elevation of the main dwelling. In other words the proposal building would not extend forward of the principal elevation of the original dwelling house.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

The erection of a building to be used for purposes incidental to the enjoyment of a dwellinghouse is permitted development if it is within the curtilage of the dwellinghouse, subject to a series of criteria set out under the heading of 'Development not permitted' at paragraph E.1

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

86/00753/OLD – side and rear extension and linked four car garage – approved
SMD/2015/0774 – Existing Lawful Development Certificate for extensions under permitted development. Dwg no's 5564.04 and 5564.05 show areas of rear extensions and entrance areas in accordance with PD rights. – not lawful – not granted

SMD/2017/0719 – Enlargement of the Dwellinghouse consisting only of the extension that has been carried out to the lounge in the location that is shown outlined in red on the attached plan and on the drawing numbered 5564.22C that was submitted with the application – approved

SMD/2017/0720 – Enlargement of the Dwellinghouse consisting only of the extension that has been carried out to the kitchen in the location that is shown outlined in red on the attached plan and on the drawing numbered 5564.24A that was submitted with the application – approved

SMD/2020/0370 – Certificate of Lawfulness for the existing use of occupation of existing dwelling without complying with condition 2 of planning permission 3563/63T – refused

Under the address of the adjacent Clay Lake Farm: 82/11603/OLDDC – Conversion of cowsheds etc to dwelling with demolition of former farmhouse – refused

CONSULTATIONS

Not applicable / none received

OFFICER COMMENTS

Principle of Development

If found to comply with the requirements and conditions of GPDO(2015) Schedule 2 Part 1 Class E –

The provision within the curtilage of the dwellinghouse of—

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or [(b) not applicable]

the development will be lawful and a certificate can be granted.

The LPA must be satisfied that the site is part of the curtilage of the dwelling house. From an examination of the planning history and OS maps there is nothing to suggest that the location hasn't always been within the curtilage of the bungalow dwelling as built following the 1968 consent.

The further defining requirements are that the proposal building

- Must not be forward of the principal elevation of the main dwelling house to which it relates
- Must not exceed 4m in height as a building with a dual pitched roof
- Eaves height must not exceed 2.5m
- Being in excess of 2.5m in height the building must not be within 2m of the boundary of the curtilage

There are several further criteria: (a), (b), (d), (h), (i) and (j) all of which the LPA can be satisfied are not at issue. A further criterion (g) is that the proposal must not be situated within the curtilage of a listed building.

Given the uncertainties as to what farm house the post 1968 bungalow was a replacement for and the proximity of the proposal to the outbuilding which is part of the Grade II Listed Clay Lake Farm House it is important to consider whether the site could be part of the Listed Building curtilage. Significant to determining this point it is to be noted that Clay Lake Farm – the farm house – was listed at 15th December 1986 (according to the HE website). The LPA has previously (2017) regarded the bungalow as dating from the early 1970s. This would certainly be consistent with the

1968 consent. A new curtilage would have been established for the bungalow at the time of its completion and this must be likely to predate the 1986 Listing – in all probability by a decade or more. In other words, when the Listing was made for Clay Lake Farm (farm house) the bungalow and its curtilage would in all probability already have been established as a separate planning unit and would not have been part of the curtilage of the farm house at that point. On this basis the now proposed garage building should not therefore be regarded as being within the curtilage of the farm house, a Listed Building. Criterion (g) is therefore satisfied.

CONCLUSION / PLANNING BALANCE

The proposal having been considered against the relevant criteria and limitations of Class E is found to be compliant and therefore a certificate of lawful development can be granted.

OFFICER RECOMMENDATION : **Lawful development certificate be granted**

Case Officer: Arne Swithenbank

Recommendation Date: 15th June 2021

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council