

DELEGATED DECISION REPORT

SMD/2021/0848
Valid 13/01/2022

ELLASTONE HOUSE
ELLASTONE ROAD
WINKHILL

**CERTIFICATE OF
LAWFULNESS FOR AN
EXISTING USE: THE
OUTBUILDINGS TO
ELLASTONE HOUSE ARE
CURRENTLY BEING USED AS
A DOMESTIC GARAGE AND
WORKSHOP, ANCILLARY TO
THE MAIN HOUSE.**

**(CERTIFICATE OF
LAWFULNESS - EXISTING)**

Site Description

The application relates to land off Ellastone Road. The building is an 'L' shaped building and is accessed off a shared track with the main dwelling Ellastone House.

Development

The application is an application for a lawful development certificate for the use of the land and building for domestic purposes ancillary to Ellastone House.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2013/0080- Occupation of a dwelling which is subject to an agricultural occupancy condition by people who do not fulfil the criteria and who have occupied the property for 19 years. Granted

SMD/2021/0846- Part retrospective application for external cladding of outbuildings.- undecided

CONSULTATIONS

Publicity

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

Public Comments

None received

OFFICER COMMENTS

Guidance on such an application is provided within section 191 of the above Act, noting that “if, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, they shall issue a certificate to that effect; and in any other case they shall refuse the application”. In considering applications such as this, the test of the evidence must be the balance of probability. In such cases the planning merits of the use are not material considerations; in order for a certificate to be granted the planning authority needs to be satisfied that, on the balance of probability, the use has operated on the same piece of land without significant interruption or material change in scale, nature or intensity for 10 years prior to the date of the application and is thus now immune from enforcement proceedings.

The application seeks the Council’s view as to whether a parcel of land and building at Ellastone House has been used as a domestic garage and workshop ancillary to Ellastone House for a period of 10 years beginning with the date of the application.

The application form states that the land in the red edge and building has not been used for agricultural purposes for at least 27 years. The surrounding fields were rented out the fields to a neighbouring farmer for sheep or cow grazing.

The application is supported by 3 signed letters from the previous land owner, a friend and an inspector from the Light Aircraft Association. The statements are not in the form of affidavits and therefore attract less weight. The application is also supported by images of the Airplane built by the applicant with the date of the images from between 2014 – 2016.

LPA Assessment

To establish if the use of the land and building has been used as described in the application google satellite imagery has been reviewed. The assessment includes a description of what is seen in these images. The LPA conclusion follows these images.

In 2005 land in red edge appears to be agricultural use as silage bays are located on the site. The remaining land appears undisturbed. The imagery data is not clear enough to establish any boundaries.



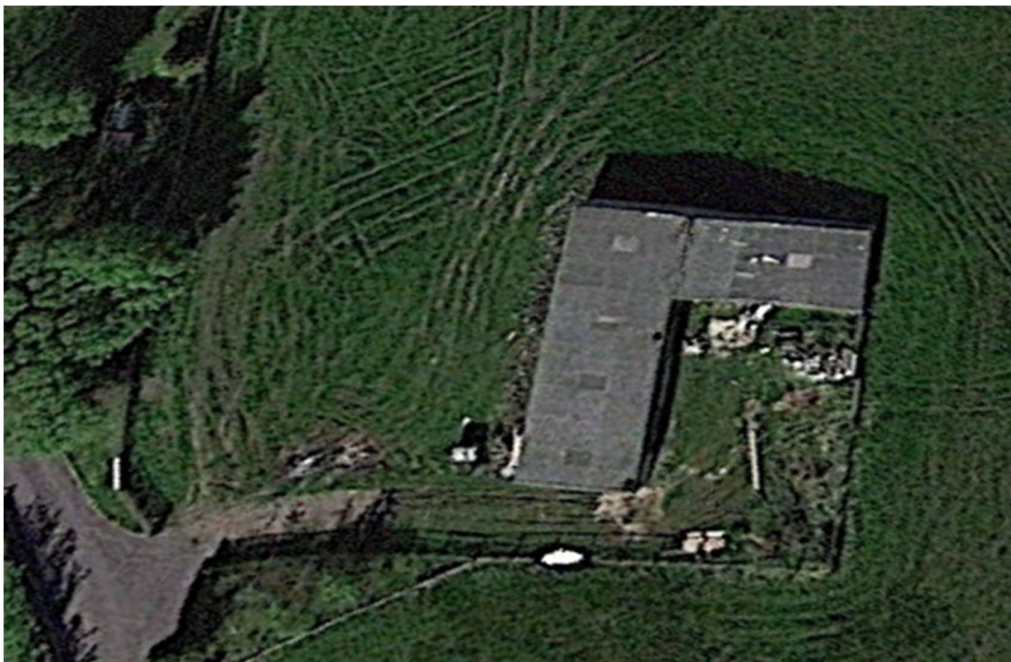
In 2006 the land is separated from the dwelling by fencing and there are a number of pieces of equipment on the land but it unclear what they are. However, the land still appears to be agricultural in character.



In 2009 the street view imagery shows the land being use for agricultural purposes due to presence of the silage bales. The building is enclosed by galvanised fencing that is common for agriculture use. Land to the side of the building looks overgrown.



In 2013 the land continues to look agricultural in character. Around the building something is being stored on the land. A fence still separates the land. Tyre tracks across the land that continue into field which supports the view that the land is being used for agricultural purposes.



At some point between 2013 and 2017 the fence was removed, new hardstanding laid with access to building, trees planted and there is a new track to land behind with access. The new boundary fence around the land now restricts access through the previous access close to the building so agricultural machinery does not travel over the new hardstanding.



In 2021 the boundary is extended to include additional land for domestic use as planting boxes are on the land. Comparing this image to the 2009 and 2013 imagery it is clear that the character of the land has changed.



CONCLUSION

From the google satellite imagery pre 2013 the land and building is considered to look agricultural in character and is enclosed by a boundary fence. There has been no evidence submitted to demonstrate that the land and buildings has been used for domestic purposes beginning with December 2011. The images submitted by the applicant show a section of building was used to construct an aeroplane. This evidence demonstrates that the building has been used for that purpose between 2014 -2016 and therefore the use of the building and land for domestic purposes could have started within the year of 2014. However, it is necessary to demonstrate 10 years of continuous use in order to benefit from a certificate. Apart from these images the applicant has not provided any other evidence in terms the exact area of the land on which each activity is said to have taken place and the frequency or duration of such activities.

As such it considered that is not sufficiently precise and unambiguous to justify the grant of a certificate relating to domestic use. Indeed, I find insufficient evidence of a specific use which a certificate could reliably be based.

OFFICER RECOMMENDATION :

That the certificate be refused.

Case Officer: Rebecca Bowers

Recommendation Date: 01.11.2022

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council