Hewitt&CarrServices

Planning Statement

Lawful Development Certificate for Existing Use:
Use of outbuilding as a domestic garage and workshop
Ellastone House, Ellastone Road, Winkhill
For Mr. & Mrs. Clarke

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1.0 INTRODUCTION

1.1. Hewitt & Carr Services have been instructed by Mr. & Mrs. Clarke to prepare a Lawful Development Certificate application pursuant to s191 of the Town and Country Planning Act 1990 (As Amended).

1.2. The application seeks to establish that the use of an existing outbuilding at Ellastone House, Ellastone Road, Winkhill for residential storage and workshop is lawful and consequently immune from enforcement action by the Local Planning Authority.

1.3. The application represents a resubmission following the refusal of application SMD/2021/0848 which had also sought a Lawful Development Certificate for the use of the building for domestic storage and workshop, but which was refused for the following reason:

1. *The Local Planning Authority considers that the evidence presented is not sufficiently precise or unambiguous to demonstrate a lawful use for domestic purposes. The Local Planning Authority therefore cannot justify the grant of a certificate of lawfulness on the balance of probability.*

1.4. The extent of the application site in this revised application wraps tight around the existing building and omits the areas of land that surround the building which formed part of the previously refused application. The extent of the application site is shown outlined in red on plan reference 01139 AL(0)01 Rev.A that accompanies the submission.

1.5. This Planning Statement and its associated Appendices constitute a precise and unambiguous suite of evidence to support the case that the use of the outbuilding for ancillary domestic purposes (storage and workshop) is lawful.

2.0 SITE DESCRIPTION

2.1. The application site comprises an 'L' shaped outbuilding that is located to the southwest of the applicant's existing property, Ellastone House, and east of the Ellastone Road which lies approximately 40 metres distant of the western elevation of the building.

2.2. The outbuilding is single storey in nature and has a gross internal floor area of 175 square metres. It is constructed from blockwork and has recently been externally clad with insulated blue slate profiled metal sheeting to its walls and insulated profiled anthracite grey sheeting to its roof. It has white UPVC windows.

2.3. To the immediate south of the building lies an area of gravel hardstanding that is enclosed by post and rail fencing. The hardstanding is served by an existing access that connects with the main vehicular access to Ellastone House a short distance to the northwest of the building.

2.4. Open fields extend to the west, east and south of the building, with the landscape rising up in a broadly south-westerly direction and sloping away gently in a westerly direction.

3.0 THE PROPOSAL

3.1. This Lawful Development Certificate for Existing Use seeks confirmation that:

1. The use of the existing outbuilding on the site for the purposes of domestic storage and workshop has taken place for a period in excess of 10 years and is now lawful.

3.2. To accompany this Planning Statement, the following suite of evidence has been prepared and submitted:

- Statutory Declaration of Mr. M. Clarke (Appendix A)
- Statutory Declaration of Mr. D. Tyers (Appendix B)
- Declaration of Chris Sales (Appendix C)
- Declaration of Neil France (Appendix D)

4.0 PLANNING ASSESSMENT

4.1. Section 171B of the Town and Country Planning Act 1990 (As Amended) confirms that where there has been a breach of planning control consisting of the change of use of land or buildings, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

4.2. The National Planning Practice Guidance confirms that the applicant is responsible for providing sufficient information to support an application for a lawful development certificate, and that if a local planning authority has no evidence itself, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided that the applicant's evidence alone is sufficiently precise and unambiguous to just the grant of a certificate on the balance of probability.

4.3. The previously refused Lawful Development Certificate application on the site was refused by the Local Authority on the grounds that the evidence presented was not sufficiently precise and unambiguous to demonstrate that the use of the building was lawful. The accompanying delegated report noted that the signed letters submitted as evidence with the previous application were not in the form of affidavits and therefore attracted less weight. The focus of the Local Authority's concerns, as detailed in the delegated report, evidently seems to stem from the use of the land surrounding the building rather than the use of the building itself, with numerous historic aerial photographs assessed.

4.4. The Local Authority went on to conclude that:

> *"From the satellite imagery from 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.*

4.5. The Local Authority also concluded that:

> *"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"*

4.6. As a result of the aforementioned concerns, this revised submission relates only to the use of the building itself, not the surrounding land, with the red line of the application site wrapped tightly around the building. The application is also

accompanied by a more robust suite of evidence to demonstrate that the use of the building for domestic purposes is lawful.

4.7. The Statutory Declaration prepared by the applicant (Mr. M. Clarke) enclosed as Appendix A confirms a series of facts relating to this matter. It confirms that he and his wife purchased Ellastone House and the outbuilding the subject to this application on 26th April 2013. Mr. Clarke draws attention to the title deeds of the property which confirm these facts.

4.8. The Statutory Declaration of Mr. Clarke confirms that prior to him and his wife purchasing the property, it was owned by Mr. Charles Sales who resided at Ellastone House between 22nd April 1994 and 26th April 2013. He confirms that during pre-sale viewings that took place prior to placing an offer on the property on 1st December 2012, the outbuilding was observed to contain gardening equipment, tools, domestic overflow, DIY tools and a Lotus car.

4.9. Mr. Clarke goes on to confirms that when the property was purchased, the outbuilding was already in use for ancillary domestic purposes and that on taking occupancy the outbuilding still contained most of the equipment and tools that had been observed during their pre purchase viewing.

4.10. Most pertinently, Mr. Clarke confirms in his Statutory Declaration that when he purchased the site it was always his intention to continue to utilise the building for ancillary domestic purposes and did so immediately upon moving into Ellastone House. He goes on to confirm that throughout his time living at Ellastone House, the building has only ever been used for ancillary domestic purposes, including the storage of household items, gardening equipment such as lawn mowers, a car and for building a smalls aeroplane which is confirmed as one of his hobbies. A series of photographs of the interior of the building are also provided.

4.11. Mr. Clarke concludes his Statutory Declaration by confirming that at no point since he acquired the site in April 2013 has the building been used for any other purpose other than ancillary domestic use. As the owner of the site, the applicant is best placed to confirm the facts of the situation and has done so by swearing them on oath. He has lived at the property for over 10 years and confirms that throughout that time he has used the building for ancillary domestic purposes and that the building has not been put to any other use.

4.12. The applicant's Statutory Declaration constitutes a substantive piece of evidence in the assessment of this lawful development certificate application and carries substantial weight. This document alone is considered to be sufficiently precise and unambiguous as to demonstrate on the balance of probability that the use of this land for domestic purposes is lawful.

4.13. The facts set out within the Statutory Declaration are nevertheless independently corroborated by the Statutory Declaration of Mr. D. Tyers. He confirms that he has known Mr. & Mrs. Clarke (the applicants) since before 1997 and that he and his

wife have been regular visitors to their home, Ellastone House, since they moved there in 2013.

4.14. Mr. Tyers goes on to confirm that during this time, none of the outbuildings associated with Ellastone House have been used for any purposes associated with agriculture or business and that they have only been used for storing domestic overflow, gardening equipment, car maintenance and the construction of a personal small aeroplane. As someone who evidently knows the applicants well (26+ years) the independent corroboration of the facts that have been presented by Mr. Clarke by Mr. Tyers, lends further significant weight in favour of the proposed development.

4.15. Further independent corroboration of the facts of this case is afforded by the supporting declaration of Mr. C. Sales (Appendix C) who is the former owner of Ellastone House. Mr. Sales confirms that during the time he owned Ellastone House, none of the outbuildings were used for any purposes associated with agriculture or other business and that they were used for storing domestic overflow and personal car storage and maintenance. The domestic use of this building can consequently be held to have commenced prior to Mr. & Mrs. Clarke purchasing the site in April 2013 and lends further credence to the facts presented by the applicant in his Statutory Declaration.

4.16. The letter of support from Mr. N. France (Appendix D) also provides further independent corroboration of the applicant's own version of events, and confirms that as an Inspector for the Light Aircraft Association, he visited the outbuildings at Ellastone House many times between April 2013 and August 2016, and confirms that during that time the outbuildings were not used for agricultural purposes. This document serves to lend further weight to the applicant's argument that the building has been used for domestic purposes for at least 10 years and is therefore now lawful.

5.0 CONCLUSION

5.1. For the reasons set out within the Planning Assessment above it is submitted that a clear, precise and unambiguous suite of evidence has been presented to demonstrate beyond the balance of probability that the building in question has been used for domestic purposes for a period in excess of 10 years and that consequently the use is now lawful in the context of paragraph 171B of the Town and Country Planning Act 1990 (As Amended).

5.2. The Local Planning Authority is therefore respectfully requested to issue a Lawful Development Certificate to confirm that this development is lawful and that it is consequently immune from enforcement action.