DELEGATED DECISION REPORT

SMD/2023/0213 **Valid 17/05/2023**	**PRIMROSE HILL** **MEERBROOK ROAD** **RUSHTON SPENCER**	**USE OF OUTBUILDING FOR THE PURPOSES OF PROVIDING ANNEXED ACCOMMODATION THAT IS ANCILLARY TO THE MAIN DWELLINGHOUSE** **(CERTIFICATE OF LAWFULNESS - PROPOSED)**

MAIN ISSUES

If any person wishes to ascertain whether any proposed use of land they may make an application to the LPA under s.192 of the Act.

If on application the LPA are provided with information satisfying them that the use described in the application would be lawful if begun at the time of the application, a certificate can be issued to that effect; and in any other case they shall refuse the application.

A use might be lawful if it would not result in material change of use; would be a use not to be taken as development for the purposes of the Act by virtue of the exceptions at s.55; or would result in a change of use that would occur within a class of the Use Class Order or be permitted by the GPDO 2015.

DESCRIPTION OF SITE

Primrose Hill is a stone cottage dating from the 19th Century. It is in a small farmstead setting surrounded by a small cluster of sheds and outbuildings. The property occupies a relative isolated location at the end of an unmade farm track.

To the north of the cottage, just 6m from its side elevation, there is an outbuilding currently used as a double garage and store.

PROPOSAL

The applicant proposes to use the outbuilding identified on plan as ‘double garage and store’ as a residential annexe to provide self-contained living accommodation to be used for purposes ancillary to the adjacent dwellinghouse.

The proposal originally included conversion works and alterations to the exterior of the building that would amount to development but would not be permitted by the GPDO 2015 because they would be carried out to a building that is not required for purposes incidental to the enjoyment of the dwellinghouse, but instead for a building required to provide living accommodation. The applicant agreed to omit the alterations from their application and claim, and seek only a determination in respect of the proposed use of the garage outbuilding.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS
None relevant

CONSULTATIONS

Publicity
No Site Notice - Not relevant to legal determination

Public Comments
None

Town / Parish Comments
Heaton PC: fully support the application

OFFICER COMMENTS
The dwellinghouse and its adjacent garage outbuilding are within the red edged land on the submitted plan, which represents one unit of ownership and occupation where the primary or prevailing use of that unit is residential associated with the single dwelling house.

It is well established in planning law that if an outbuilding is used within the same planning unit for purposes that are ancillary to the primary use and that it does not result in a physically and functionally separate planning unit- a material change of use will not occur.

Ancillary status is a matter of fact and degree and it is a matter of there being some functional link between the use and the primary use, in this case between the proposed annexe and the dwelling house.

The proposal makes it clear that the annexed living accommodation would only be occupied by the existing household and their guests as part of the existing single dwellinghouse use of the panning unit. Despite the self-contained nature of the living accommodation, used in that context, the proposed use of the outbuilding would not result in the creation of a smaller and physically and functionally separate area that could be identified as a new standalone planning unit. It is not part of this proposal to use the outbuilding as a single stand alone, self-contained residence that would be physically and functionally separate from the dwelling

On that basis the proposed use would not result in a material change of use and a certificate of lawfulness should be made out in those terms.

Any operational work or alteration to the external appearance of the building that might be necessary for conversion, would require a planning permission because they would be not permitted for these purposes by the GPDO 2015, as confirmed by the technical guidance for householders.

CONCLUSION / PLANNING BALANCE
The proposed use would be lawful and not result in a material change of use.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst
Recommendation Date: 11/07/2023

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council