DELEGATED DECISION REPORT

SMD/2023/0236 **Valid 10/05/2023**	**ELLASTONE HOUSE** **ELLASTONE ROAD** **WINKHILL**	**APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR EXISTING USE OF OUTBUILDING FOR DOMESTIC STORAGE AND WORKSHOP PURPOSES** **(CERTIFICATE OF LAWFULNESS - EXISTING)**

MAIN ISSUES

The main issue for consideration is whether or not the building has been in domestic use for a period in excess of 10 years.

DESCRIPTION OF SITE

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.

PROPOSAL

The application is for a lawful development certificate for the building for domestic storage and workshop 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.- FULL-REF.

SMD/2021/0848 – Certificate of lawfulness for an existing use: The outbuildings to Ellastone House are currently being used as a domestic garage and workshop. CLUE-REF.

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 building at Ellastone House has been used for domestic storage 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 building in the red edge has not been used for agricultural purposes for at least 27 years. The surrounding fields were rented out to a neighbouring farmer for sheep or cow grazing. The application is supported by 4 signed letters from the applicant, previous landowner, a friend and an inspector from the Light Aircraft Association. Two of the statements from the applicant and the previous landowner have been legally witnessed and signed by a solicitor. The other two statements from the friend and the inspector from the Light Aircraft Association are not in the form of affidavits and therefore attract less weight. The application is also supported by images of the Aircraft built by the applicant with the date of the images from between 2014 – 2016.

It is noted that the proposed application states that the building as existing has been used as a workshop. Furthermore, evidence has been provided from photographs submitted with the application between 2014 and 2016, and a letter from the Light Aircraft Association which states that within the period of April 2013 and August 2016 the building of an aeroplane occurred. However, this only proves a period of 3 years and not over a continuous period of 10 years. Therefore, it is considered that the development is not lawful as a workshop as it has not been illustrated that the use as a workshop has been continuous over a period of 10 years.

However, the application also states that the building has been used for storage purposes. From the legal letters provided with the application the previous owner states that the building was used for domestic overflow, car storage and maintenance. The current owner states that the building has been used for the storage of household items, garden equipment such as lawn mowers and a car.

The Local Planning Authority has no evidence to contradict the applicant's statement. The granting of the certificate is for storage purposes only (household items, car storage and garden equipment). It should be noted that the granting of a certificate of lawfulness does not allow the building to be ancillary to the main dwellinghouse. The certificate relates only to the lawful use of the land.

Given the above, on the balance of probability, the Local Planning Authority is satisfied that sufficient evidence has been provided to demonstrate that the building in question has been used for ten or more years in connection with the storage use

only and is lawful for the purposes of Section 191 of the Town and Country Planning Act 1990.

CONCLUSION

It is not considered that the building has been used as a workshop for 10 or more years and is not lawful for the purposes of Section 191 of the Town and Country Planning Act 1990.

On the balance of probability, the Local Planning Authority is satisfied that sufficient evidence has been provided to demonstrate that the building shown within the red outline has been used for storage purposes. However the building is not considered ancillary to the main dwellinghouse Ellastone House. It is considered that the building has been used as a storage space (household items, car storage and garden equipment) for 10 or more years and is lawful for the purposes of Section 191 of the Town and Country Planning Act 1990.

OFFICER RECOMMENDATION :. Approve

Case Officer: Nicole Quinn
Recommendation Date: 14/06/2023

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council