DELEGATED DECISION REPORT

SMD/2023/0344 **Valid 11/07/2023**	**KENNELS** **SERENDIPITY LEEK ROAD** **MOORVILLE** **CELLARHEAD**	**CERTIFICATE OF LAWFULNESS (EXISTING) FOR 2 CONTAINERS AND 2 LORRY BODIES FOR STORAGE** **(CERTIFICATE OF LAWFULNESS - EXISTING)**

MAIN ISSUES

- Whether the use of freight containers and lorry backs for storage on the land amounts to a use that is ancillary to the primary use of the planning unit or has resulted in operational development that requires planning permission.

DESCRIPTION OF SITE
The containers and lorry backs are currently placed against the hedgerow boundary to the front lawn of a bungalow. The bungalow provides office space and reception for dog rescue kennels which are to the rear.

THE APPLICATION
The application seeks a certificate of lawfulness for the existing use of containers for storage.

The containers consist of two lorry bodies and two freight containers. They are used to store dog feed and kennel equipment.

The claim is that the storage containers are not buildings and that the storage has not resulted in operational development – it is a use that is ancillary to that of the planning unit.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS
78/05233/OLDDC Establishment of dog boarding kennels. APPROVED.
78/05766/OLDDC Proposed Kennels. APPROVED.
00/01151/FUL Change of use to dog and cat sanctuary, demolition of barn and erection of 20 kennels. APPROVED.
01/01007/FUL Replacement kennels. APPROVED

CONSULTATIONS

Publicity
Site Notice expiry date: 5th Aug 2023
Neighbour consultation period ends: 5th Aug 2023
Press Advert: N/A

Public Comments
None

Town / Parish Comments
Parish Council Awaited

Environmental Health
No Objection

Staffordshire County Council Highways
No Objection

OFFICER COMMENTS
The original permission from 1978 that establishes the boarding kennel use, confirms an approved plan that shows and defines the site with a red edge to include the bungalow all of the land to the front up to the highway and a vast area at the rear for kennelling.

The site visit reveals a large area of land that is quite clearly owned and occupied as one for the purpose of kennelling rescue dogs. The bungalow provides office and reception space, the front is used for parking and storage, while the dogs are kennelled to the rear. It presents as one planning unit with a single primary use.

It has emerged from the courts that the planning unit should be taken as the one unit of ownership and occupation, unless some smaller part is identifiable as being physically and functionally separate. The area of land occupied by the containers is open to the remainder of the land, there is no physical separation and it is functionally linked to the rest of the ownership. The storage of dog food and kennelling equipment is an ancillary to that primary use, it does not result in material change of use because it relies on an ancillary link to the primary use.

Clearly the freight containers and lorry backs have been moved on to the land as individual complete units, they have not been dismantled and assembled on site. However, if they were now to essentially perform and function with the characteristics of a building, then operational development might have occurred. Key tests have emerged from the courts to be applied in address of such a question – size, degree of permanency, and means of attachment.

On inspection the containers do not obviously have the appearance or characteristics of a building. They appear as freight containers and lorry backs and are sized accordingly, they have not been altered or adapted in any way and could be returned

to the purpose of haulage or freight. The lorry backs in particular still have reflective strips and cyclist warning signs on the rear doors.

The containers are not attached to the ground by any means they rest on wooden and concrete blocks at each corner, enabling fork lift or crane hoists to pass beneath. The ground has not been prepared, levelled or altered with the introduction of hard standings that would otherwise suggest a degree of permanency or fixing to the ground. On all accounts the containers have been used in there current positions for many years, but this is because they are placed most discretely into the hedge where they are inconspicuous and screened. There is no reason why they could not be relatively easily moved or removed from the land as complete individual units, restoring the land to its former condition by simply dragging or lifting them out of position without any need to remove fixings, bolts, foundations, or hard standings.

In conclusion, the moveable containers are not buildings and are not the result of operational development, they are purposed for a storage use that is ancillary to the primary use of the planning unit.

Their introduction and use on the land are for these reasons lawful because development has not occurred.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst
Recommendation Date: 5th September 2023

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council