

DELEGATED DECISION REPORT

SMD/2024/0097
Valid 15/03/2024

GRATTON HAYE FARM
DAMS LANE
GRATTON

**CERTIFICATE OF
LAWFULNESS APPLICATION
TO ESTABLISH THAT THE
EXISTING BUILDING IS USED
FOR BOTH COMMERCIAL
B2/B8 USE AND DOMESTIC
USE C3 AND THAT THE
EXISTING DOMESTIC
EXTENSIONS AND
OUTBUILDINGS ARE LAWFUL.**

**(CERTIFICATE OF
LAWFULNESS - EXISTING)**

MAIN ISSUES

- Lawfulness of the building
- Lawfulness of the use

DESCRIPTION OF SITE

The application relates to a large site comprising of a two-storey dwelling within the open countryside, north of Endon. It is also in the Green Belt. The property fronts onto Dams Lane and has restricted gate access. The dwelling comprises of a number of additions, notably a portal framed building attached to the rear of the property.

The site benefits from a large driveway and curtilage to the north and east

PROPOSAL

The applicants seek confirmation by way of a lawful development certificate that the building has been established in parts C3- domestic use and commercial B2/B8. The purpose of this exercise is to determine whether the site as a whole is previously developed land.

The applicant previously submitted a full planning application for a replacement dwelling under ref SMD/2023/0570. The application was refused as there were no planning history to determine the use of the site and therefore, if it were previously developed land. The use of the site determined whether the site could be redeveloped under one of the Green Belt exceptions, specifically Paragraph 154 g) that allows the 'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings)...'. The key word being 'previously developed land.'

Submitted with the application are a number of supporting information as follows:

- Location Plan numbered 2023-2824-10
- Plans and Elevations numbered 2023-2824-11
- Screenshot of Council's Interactive Planning Map – Appendix 1
- Letter from West Midland Traffic Area – Appendix 2

- Photograph of Mr G L Birch's wagon – Appendix 3
- Death Certificate of Mr G L Birch – Appendix 4
- Aerial Photograph dated 1977 – Appendix 5
- Aerial Photograph dated 1990's – Appendix 6
- Google Maps © Street View Image dated July 2009 – Appendix 7
- Statutory Declaration by Mr Paul Birch - Appendix 8
- Death Certificate of Mr J Morgan – Appendix 9
- Statutory Declaration by Mr J Fryer – Appendix 10
- Letter from Mr Fryer's Accountants – Appendix 11
- Photos from Sharon Birch's wedding – Appendix 12
- Copy of wedding invite from Sharon Birch's wedding – Appendix 13
- Google Maps © Street View Image dated July 2009 – Appendix 14

The agent has submitted a plan identifying the use of the building. Pink- commercial. Yellow- domestic. Green- mixed:



RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffs Moorlands Local Plan (adopted September 2020)

National Planning Policy Framework

RELEVANT PREVIOUS APPLICATIONS

SMD/2023/0570

Replacement dwelling

Refused

CONSULTATIONS None

OFFICER COMMENTS

Principle of Development

The purpose of the application is to consider whether on the balance of probability that the site has been used as a mixed used site as per the applicant's evidence and, has been so for over 10 years to consider the site as lawful.

Firstly, using desk-based assessment, the stone-built building associated with Gratton Haye Farm is shown to be built on a pre-1948 O.S map. In reference to aerial photographs and O.S maps, a number of buildings had been added to the stone-built dwelling at some point in its history. This includes a two storey brick built addition extending from the rear elevation, a number of single storey extensions, temporary structures such as cold sheds and linkage to the large portal framed building. A search of the planning history and enforcement records have not revealed any permission for this pre-existing addition, or the portal framed building.

The case officer visited the site and noted the portal framed building encompassed a former cow byre- see photo (right) below. The cow byre would suggest that the site had once operated for agricultural purposes and livestock were reared on site however over time, a portal framed building was added for the sheltering of larger equipment and machinery. The vehicles, machinery and implements as shown from the photo (left) suggest it to has later been used as a repair workshop and storage facility. The case officer is minded to accept the building has been used as an agricultural contracting business classed as B2/B8 under the Change of use gazetteer.



In terms of the domestic use of the existing building, I am in agreement that the stone building and the connecting element of the building highlighted yellow in the sectioned plan has been used for domestic purposes. The site visit confirmed that the extension that connected the stone built building had the layout, design, amenities and domestic fenestrations to be used for the purpose of living accommodation. As noted in the photos, the rooms, while poorly insulated, were furnished to be used for domestic accommodation:



The officer also consulted the revenues team to establish whether commercial rates were paid on site. No records of non-domestic rates were found on the site. The agent could not confirm any commercial rates have been paid by either of the users operating from the site. Whilst this does not corroborate the evidence that the site has been used for commercial purposes equally it does not contract it as it is possible that a business operated here without paying the appropriate business rates.

According to the evidence provided by the applicant/ agent, the declaration by Paul Birch, son of Paul Birch- owner of Gratton Farm, stated that the agricultural use on site ceased in 1970s. The declaration from John Fryer, a farmer, had been tenanted the land associated with Gratton Farm for over 20 years, undertaken on a gentlemen's agreement of the owner of the site to maintain the farmland/ site and subsequently, used the site as an agricultural contracting business in the 2010s. The commercial business has also been confirmed by a Bennett Brooks, an accountancy firm, there engagement for the partnership of J & GJ Fryer since May 2014.

When considering the evidence before me, the site visit and statements provided by the previous occupants provide sufficient probability that the building has been used commercially by John Fryer for the last 14 years in conjunction with his agricultural contracting business. As such, the LPA can thus be satisfied on the balance of probability that the physical presence of the site buildings shown on plan 2023-2824-11 coloured in pink is B3/B8 to be commercial and the domestic building coloured in yellow and structures in

green are domestic. The buildings themselves are therefore by default lawful having been in-situ for more than 4 years.

CONCLUSION / PLANNING BALANCE

Based on the above considerations it can be concluded that the use of the building as described in plan 2023-2824-11 has been established for both commercial and domestic use beyond the ten years that deems the use to be considered lawful. A certificate of existing use can be issued.

OFFICER RECOMMENDATION : Approve

Case Officer: Lisa Li

Recommendation Date: 22/05/24

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council