

DELEGATED DECISION REPORT

SMD/2024/0372
Valid 13/08/2024

**THE CROFT CHEADLE
ROAD
DRAYCOTT IN THE MOORS**

**APPLICATION FOR A LAWFUL
DEVELOPMENT CERTIFICATE
FOR EXISTING OCCUPATION
OF THE DWELLING IN
BREACH OF THE
AGRICULTURAL OCCUPANCY
CONDITION**

**(CERTIFICATE OF
LAWFULNESS - EXISTING)**

MAIN ISSUES

The application is for a Certificate of Lawfulness relating to a breach of an occupancy condition which can only be granted in the circumstances where the breach (on the date of the application) can be considered to have a lawful status that is immune from enforcement action. A breach of condition can be lawful through the passage of time (a 10 year continuous period). The application is to be decided on the basis of a legal determination with only consideration of evidence relating to either of those factors. The report will set out the following considerations:

- Is the occupancy condition currently breached?
- Has that breach taken place continuously for at least 10 years prior to the date of the application?

DESCRIPTION OF SITE

Large detached bungalow, located within the Green Belt to the southwest of Cheadle 3km from the edge of the settlement. Accessed via a long driveway with a compacted unmade surface that connects to Cheadle Road. The bungalow has been built on and is to the south of the Hollow Farm holding.

PROPOSAL

The application is submitted on the basis that the dwelling, The Croft, has been occupied in breach of the agricultural occupancy condition for over 10 years.

An occupancy condition (condition 3) was imposed to the Planning Approval of 22 April 1968 (ref: 7328) which states as follows:-

The occupation of the house shall be limited to a person employed or last employed locally in agriculture as defined in Section 221 (1) of the Town and Country Planning Act, 1962, and the dependents of such a person (but including a widow or widower of such a person).

Details regarding the property and its occupiers are as follows:-

The Croft is a bungalow which is owned by Trevor Beech and his family (i.e. wife and two children).

The Croft was originally occupied by Trevor Beech's grandparents, up until 1997. The property was then owned and occupied by Trevor Beech's parents, until January 2013.

Since September 2013 the property has been let-out, and let-out to people who have no involvement in agriculture.

From September 2013 to September 2017 the property was let to Andrew Boulton-Briggs, who was Operations Director for Turbine Controls Ltd.

Since September 2017 the property has been let to Howard Corns and Samantha Rowley-Corns, both of whom have commercial business interests. Howard Corns and Samantha Rowley-Corns continue to live at The Croft with their young child.

Since September 2013, when the property has been let-out, The Croft has been occupied by people in breach of the agricultural occupancy condition.

Submitted with this application are the following documents:-

- Statutory Declaration by Trevor Beech
- Letter from Andrew Boulton- Briggs
- Letter from Samantha Rowley-Corns
- Original planning consent document for the property, dated 22 April 1968

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

7328 Permission of a bungalow Hollow Farm Draycott. APPROVED 22nd April 1968.

RELEVANT PARTS OF THE ACT

s.72 Conditional grant of planning permission.

s.171A Expressions used in connection with enforcement (1)(b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.

s.171B Time limits (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

171BA Time limits in cases involving concealment

191 Certificate of lawfulness of existing use or development. (1) If any person wishes to ascertain whether- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the LPA describing the matter.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application

CONSULTATIONS

Publicity

Site Notice expiry date: 24th Sep 2024

Neighbour consultation period ends: 24th Sep 2024

Press Advert: N/A

Public Comments

None

Town / Parish Comments

Draycott in the Moors PC: No Objection

OFFICER COMMENTS

The application does not seek the removal of the condition. An approval in this case will not have that effect. Rather the applicants request confirmation that the occupation and breach of the condition is considered to be immune from enforcement action.

A breach consisting of a failure to comply with a planning condition will become immune from enforcement action and thereby lawful after a period of 10 years. In this case where the occupation and use of a dwelling is said to have breached a condition that limits its occupancy to an agricultural worker, their breach will become immune if the occupants have used the property as their sole residence for 10 years or more and have not within that period had any employment in agriculture. The determination therefore, is whether on the 'date of the application' the applicant's breach was immune from action and therefore lawful.

Built in 1968, the bungalow is owned by the occupant and owner of Hollow Farm, the applicant, Mr T Beech. On his evidence, the bungalow was occupied by Mr. T Beech's grandparents until 1997. The bungalow was then occupied by his parents until January 2013.

In evidence, sworn statutory declaration, the applicant presents the following key timeline:

- From September 2013 until September 2017 the bungalow was let to Andrew Boulton Briggs who was Operations Director for Turbine Controls Ltd
- From September 2017 to present day the property has been let to Howard and Samantha Corns who have commercial business interests.

Additional evidence includes signed letters from these occupants detailing their periods of occupancy and their employment, clearly not associated with agriculture, during that time. The evidence presents a period and continuity of occupancy that has not complied with the occupancy condition for more than 10 years. Non-compliance with the occupancy condition would now be immune from enforcement action and the planning authority would be out of time to take action.

There is no counter evidence available or any other reason to believe that the applicant's evidence is less than probable. The current and last employment of occupants during the last 10 years has not been associated with agriculture, occupation of the bungalow not in compliance with the occupancy condition has been the case for over 10 years. It seems clear that the applicant's current tenants are currently breaching the occupancy condition but their breach is immune from enforcement action.

It is not considered that the circumstances of this case would meet the tests of 'deliberate concealment', simply the breach has passed without notice and an application for an 'enforcement order' would seem unjustified.

CONCLUSION

There is no reason to think or counter evidence to suggest that the applicant's current breach of the occupancy condition is not immune from enforcement action. The breach should therefore be considered lawful.

OFFICER RECOMMENDATION : APPROVAL

Case Officer: Ben Hurst

Recommendation Date: 8th October 2024

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council