

May 2025

Planning Statement

**Hayes Gate Farm, Star Bank,
Oakamoor**

Application for a Lawful Development Certificate
For Use of Barn as Ancillary Accommodation
In Accordance with Permission Ref. SMD/2019/0453

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Document Control Sheet

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Version	File Name	Description	Prepared	Checked	Date
01	3849_PS_V1	Planning Statement	EA	MB	23.05.25
02	3849_PS_V2	Planning Statement	EA/MB	MB	28.05.25

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1 Introduction

- 1.1 Planning & Design Practice is a multidisciplinary practice consisting of chartered town planners, architects and heritage specialists. The practice operates across England and Wales and has an exemplary track record of submitting successful planning applications and in facilitating sustainable development.
- 1.2 This report has been structured to provide an introduction to the site and discuss its planning history; details of the proposed development and the rationale for it; and an examination of the key planning issues to be considered.
- 1.3 Also submitted to accompany the report are the following:
- Appendix A- Parking evidence
 - Appendix B- Commencement evidence
 - Appendix C- Proposed footpath diversion

2 Site Description and Planning History

Site Location

- 2.1 The site is located approximately 1.5 km outside the built framework of Oakamoor, Staffordshire, located off the B5417 on the eastern side of Star Bank. The footpath 'Cotton 25' runs through the centre of the site. The site comprises a number of agricultural buildings that include both traditional stone buildings and modern portal frame buildings. The site is no longer used for farming and in 2019 permission was granted for the change of use of the larger barn to a dwelling. Following this, permission was granted to convert the stone barn behind the dwelling and portal framed building to ancillary domestic accommodation and covered parking under application ref. SMD/2019/0453. It is this application that is the subject of this Lawful Development Certificate.
- 2.2 There is a small stone barn located to the east of the site. The barn is single storey with a pitched roof and timber windows. The barn has a floor area of 53 square metres, is of traditional sandstone construction and is structurally sound. The outbuilding is situated to the south of the site, separated from the stone barn by a small courtyard. According to the Staffordshire Moorlands Local Plan, the site is situated within the Churnet Valley Masterplan Boundary and in the rural countryside. The site is not located in the Green Belt. The site is located in flood zone 1 and therefore is not considered to be at risk from flooding.



Figure 1: Site location

Relevant Planning History

- 2.3 Conversion of stone barn and farm building to provide for their use as additional and ancillary living accommodation and covered parking for the dwellinghouse granted planning permission on the 11th June 2019 (ref SMD/2019/0187) | Ref. SMD/2019/0453 | Approved (November 2019)

Conditions

1. *The development hereby permitted shall be begun before the expiration of three years from the date of this permission.*
2. *The development shall not be carried out nor shall the buildings be brought into use until the development permitted by planning permission SMD/2019/0187 (or the Class Q approval granted at appeal DET/2018/0002) has been carried out and the dwellinghouse has been provided and occupied in accordance with the permissions. The covered parking and additional ancillary living accommodation shall thereafter only be used as such together with the dwellinghouse as one single unit of occupation that is identified with the red edge shown on the 'Site as proposed' drawing numbered 2493-003 'B' received on the 22nd October 2019. The primary use of that unit shall only be that of a single dwellinghouse and no building shall be let, sold, occupied or otherwise used separately to that primary use.*

The large barn on site has been lawfully developed and occupied in accordance with permission ref. SMD/2019/0187, with the Applicants living on site currently. The covered parking has been used for parking purposes since occupation of the dwelling.

3. *There shall be no works carried out to the buildings until the Local Planning Authority has been provided with either:*
 - a) *proof that a valid Natural England ESP licence has been obtained for the works to proceed legally; or*
 - b) *A statement in writing by Natural England indicating that it does not consider that the development will require a licence.*

No works have been carried out to any of the buildings that are part of the permission, and thus no licence has yet been obtained.

4. *Works shall only be carried out avoiding the bird breeding season which runs March-September inclusive; Where this is not possible and works are to be scheduled during the bird breeding season, a nesting bird check shall be carried out by a competent surveyor. If an active nest is found, the protection of this nest will be required, with an exclusion zone around the nest and access points being used by the birds. This is required to remain in situ until the chicks have fledged and the nest becomes inactive. Bird mitigation and compensation features as per the ecology report recommendations that were submitted with the application shall be installed prior to the first occupation of the development and shall remain at all times post development.*

No works have been carried out.

5. *The development permitted and described above shall only be carried out in complete accordance with the revised 'Site as proposed' drawing numbered 2493-003 'B' received on the 22nd October 2019 and the drawn and written detail numbered 2493-005 and 2493-007 that were submitted with the application. There shall be no demolition, dismantling or rebuilding carried out to the buildings without a further grant of planning permission by the Local Planning Authority.*

The change of use of the parking garage is in accordance with the approved site plan, and other associated work that has taken place is in accordance with the approved plans.

6. *Once the development is complete, the buildings shall be retained and maintained in that finished condition and appearance in full accordance with the drawn and written details shown on the approved drawings numbered 2493-005 and 2493-007. All external fittings, installations, colour and materials shall be maintained and retained in a good state of repair or reinstated with like for like replacements where they are damaged or removed. There shall at no time be any other alteration, improvement or enlargement made to the buildings or any new or additional buildings provided without a further grant of planning permission from the Local Planning Authority . For the avoidance of doubt this restriction includes any alteration, improvement and enlargement or provision of buildings of a type that would be permitted at a dwellinghouse by the classes at Part 1, Schedule 2,*

of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and reenacting that order with or without modification).

Development is yet to be completed, but it is the Applicant's intention to ensure that the finished development is to be maintained in a good state of repair.

7. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as may subsequently be amended or re-enacted) no gates walls or fences normally permitted by Part 2 Schedule 2 to that Order shall be carried out unless a further planning permission has first been granted on application to the Local Planning Authority.*

No gates, walls or fences have been, or will be, erected without further planning permission being sought from the Council.

- 2.4 Erection of an extension to ancillary accommodation | Ref. SMD/2025/0006 | Refused (March 2025) | Appeal submitted

3 Background Information

- 3.1 In November 2019, permission was granted on the site for the change of use of the stone barn and farm building to be used for ancillary accommodation and covered parking in connection with a barn conversion that was also granted on site.
- 3.2 The permission was deemed acceptable, and it was considered that the proposed change of use would not detrimentally impact the character of the area, nor the amenity of the occupiers of the barn conversion on site. A number of conditions were placed on the decision, including the tying of the stone barn ancillary use to the barn conversion.



Figure 2: Stone barn prior to change of use

- 3.3 An application was submitted in 2024 for the change of use of the ancillary accommodation to an open market dwelling, including an extension on the barn (ref. SMD/2024/0262). This was refused for 4 reasons:
1. A dwelling would normally not be permitted in the location.
 2. The extension would be harmful to the building's scale, proportions & character.

3. No evidence was submitted to demonstrate how the proposal would impact upon wildlife habitats, specifically bats.
4. The proposal would fail to provide acceptable living conditions and amenity for future occupiers.

3.4 Subsequently, an application was submitted in January 2025 for the extension of this stone barn, whilst retaining its ancillary use, to address the above reasons for refusal (ref. SMD/2025/0006). The proposed extension was reduced in scale to appease the Council, and evidence was provided that the proposed extension would not impact upon wildlife habitats. This was ultimately refused, and a separate appeal has been submitted against this by the Applicants.

3.5 In the Officer's report of this refused application, it was stated that the permission for the change of use to ancillary accommodation had expired and had not been implemented. In the Officer's report for the previously refused application "*Demolition of existing steel framed agricultural building to provide purpose built garage and agricultural machinery store, solar array and battery store (SMD/2022/0395)*", the same Officer stated that the use for which it was proposed was "*adequately served by the existing shed*". The decision date for this application was 8th September 2022 at which point, the application (subject of this LDC) was live. The change of use of the barn to a parking garage has no pre-commencement conditions attached, other than that the residential barn conversion is occupied, which it was. The Officer's report is inconclusive on whether the use of the building had been implemented. The planning statement submitted with the application was explicit in stating that the use of the building for garaging had commenced (Paragraph 2.2 of Planning Statement) and provided photographs of cars parked within the building. The Planning Officer did not dispute this and made explicit reference to the fact that the dwelling was adequately served by the existing shed. The Lawful Development Certificate accompanying this statement aims to ensure that the permission remains extant.

4 Planning Legislation

- 4.1 Applications for a Certificate of Existing Lawful Use or Development are a legal test based on the grounds of probability.
- 4.2 The Planning and Compensation Act 1991 introduced rolling time limits within which local planning authorities can take planning enforcement action against breaches of planning control.

Town and Country Planning Act 1990

- 4.3 Section 191 'Certificate of lawfulness of existing use or development' determines whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes. It states:

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(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 local planning authority specifying the land and describing the use, operations or other matters.

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

...

(4) 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, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use, operations or other matter to be lawful; and

(d) specify the date of the application for the certificate.

(6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

4.4 Section 171 states:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

...

(4) The preceding subsections do not prevent—

(a) The service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) Taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

The Town and Country Planning (Development Management Procedure) (England) Order 2015

4.5 Part 8, Article 39 'Certificate of lawful use or development' specifies the contents of an application and how it must be submitted. It states that:

(1) An application for a certificate under section 191(1) or 192(1) of the 1990 Act (certificates of lawfulness of existing or proposed use or development) must be made on a form published by the Secretary of State (or on a form substantially to the same effect) and must, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those sections, include the particulars specified or referred to in the form.

(2) An application to which paragraph (1) applies must be accompanied by—

(a) a plan identifying the land to which the application relates drawn to an identified scale and showing the direction of North;

(b) such evidence verifying the information included in the application as the applicant can provide; and

(c) a statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application.

5 Applicant's Case

- 5.1 The title of the permission which relates to the conversion of the stone barn is *“Conversion of stone barn and farm building to provide for their use as additional and ancillary living accommodation and covered parking for the dwellinghouse granted planning permission on the 11th June 2019 (ref. SMD/2019/0187)”*. The permission covers two buildings, identified with the red lines on the figure below. Building no.1 is for ancillary accommodation, and building no.2 is for the associated parking to the approved residential barn conversion.



Figure 3: Buildings identified in accordance with permission ref. SMD/2019/0453

- 5.2 Permission was granted on 11th November 2019, meaning that the permission would have expired on 11th November 2022.
- 5.3 The parking has been implemented within the above timeframe, as shown in the images provided in Appendix A. These images show the building being used as parking in July 2022, November 2022, January 2023, March 2023 and September 2024. The Applicants moved into the converted barn in October 2021, and used the farm building as parking whilst works were ongoing, and have continued to

do so since the completion of the barn conversion. The conditions for the residential barn conversion were discharged in May 2022 (ref. DOC/2022/0018), meaning that the parking was implemented prior to the expiration of the relevant permission.

- 5.4 Whilst none of the physical works that were outlined on the proposed drawings for the parking shed have been undertaken, the change of use has still occurred.
- 5.5 In the Officer's Report for the previously refused application on site to demolish this parking shed and erect a larger garage in its place (SMD/2022/0395), the Officer stated that the use for which it was proposed were "*adequately served by the existing shed*". The decision date for this application was 8th September 2022 at which point, the application (subject of this LDC) was live. The change of use of the barn to a parking garage has no pre-commencement conditions attached, other than that the residential barn conversion is occupied, which it was. The Officer's report is inconclusive on whether the use had of the building had been implemented. The planning statement submitted with the application was explicit in stating that the use of the building for garaging had commenced (Paragraph 2.2 of Planning Statement) and provided photographs of cars parked within the building. The planning officer did not dispute this and made explicit reference to the fact that the dwelling was adequately served by the existing shed.
- 5.6 Due to the building works not having yet taken place, no conditions have needed to be discharged prior to the change of use. The parking is still being used ancillary to the approved barn conversion on site, in accordance with condition 2 of the relevant permission, and no further changes have been made to the building.
- 5.7 Therefore, it is considered that the permission ref. SMD/2019/0453 has been lawfully implemented, and that it is therefore extant.
- 5.8 Notwithstanding the above, other works have also been done on site to implement the permission.
- 5.9 Appendix B shows a selection of photos which demonstrate the installation of drainage pipes to the rear of the barn. These works were not shown on the planning drawings, but are a necessary step for the conversion of a non-residential building for residential use.

- 5.10** The footpath that has been highlighted on the proposed site plan (Appendix C) as being diverted is also in the process of being done so. The Order for the diversion has been drafted and sent to the Council to be formally 'made', subject to no objections during the current consultation period. The associated footpath gate and boundary fencing have also been erected.

6 Conclusions

- 6.1** This Planning Statement has demonstrated that the permission granted under ref. SMD/2019/0453 for the conversion of the stone barn to ancillary accommodation and covered parking has been lawfully implemented.
- 6.2** The continued use of the farm building as a covered parking shed has been supported by dated photographic evidence, and has been used in connection with the barn conversion on site. The occupation of the barn conversion and subsequently the implementation of the parking garage was done so within the expiry period of the application. Furthermore, the installation of supporting infrastructure, such as drainage, and the diversion of the footpath also show the Applicant's intentions to lawfully commence the relevant permission.
- 6.3** No conditions have been breached, and the Applicant will discharge any required conditions ahead of the relevant works on either the stone barn or the parking shed.
- 6.4** Therefore, in light of the above, it is considered that a lawful commencement of the permission has taken place, and that the use of the stone barn as ancillary accommodation, and the farm building as a parking shed, remain in accordance with the terms of the original permission. The Applicants therefore respectfully request that the Council issue a Certificate of Lawful Development confirming the lawful implementation of permission ref. SMD/2019/0453.



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