

PLANNING STATEMENT

**PROPOSAL : CERTIFICATE OF LAWFULNESS
APPLICATION TO ESTABLISH THAT THE
EXISTING BUILDING IS USED AS A
UNENCUMBERED SELF CONTAINED
DWELLINGHOUSE OVER ALL THREE FLOORS
WITHOUT COMPLYING WITH CONDITION 9 OF
APPLICATION SMD/2008/0105 (OLD
REFERENCE: 08/00931/FUL**

**ADDRESS : LAKESIDE, REACLIFFE ROAD, RUDYARD,
STAFFORDSHIRE, ST13 8RS**

APPLICANT : MR J SHAW

DATE : JANUARY 2026 JOB No.: 2025-2999

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1 INTRODUCTION

This statement is submitted in support of a certificate of lawfulness application under S191 of the Town & Country Planning Act 1990 (as amended) to establish that the existing building is used entirely and solely as a residential dwellinghouse across its entire three floors in breach of condition 9 of planning permission SMD/2008/0105 which permitted a replacement boathouse with ancillary accommodation and required the floorspace of the lower ground floor of the building to be used solely for boat storage and incidental equipment for outdoor recreation.

The application has been submitted by Sammons Architectural Ltd on behalf of Mr J Shaw. This planning statement sets out a precise and unambiguous justification for the lawful development certificate to be granted. The statement is accompanied by the following documentation:-

- 2025-2999-01 Existing Conditions Floor Plan and Elevations
- 2025-2999-02 Location and Block Plan
- Appendix 1 – Decision Notice SMD/2008/0105
- Appendix 2 – Approved drawing 20 from planning approval SMD/2008/0105
- Appendix 3 – Title Plan
- Appendix 4 – Email from Mr Stephen Mansfield
- Appendix 5 – Air Tightness Test Report dated 30th July 2010
- Appendix 6 – Building Regulations Compliance Certificate from NAPIT dated 01st December 2013
- Appendix 7 – Building Regulations Certificate of Completion dated 12th September 2014
- Appendix 8 – Rudyard Conservation Area Appraisal adopted July 2016
- Appendix 9 – Report to Cabinet Meeting dated 1st December 2015
- Appendix 10 – Minutes of Cabinet Meeting dated 1st December 2015
- Appendix 11 – Draft Rudyard Conservation Area Appraisal dated 1st December 2015
- Appendix 12 - Council Tax Bill Demand Notices for the periods:
 - 2025/2026
 - 2023/2024
 - 2022/2023
 - 2020/2021
 - 2019/2020
 - 2018/2019
 - 2017/2018
 - 2016/2017
 - 2015/2016
 - 2014/2015
- Appendix 13 – Applicant's bank statements

2. SITE & LOCATION

The application building now known as Lakeside (formerly known as Stoney Bank) comprises of a three storey building set into the bank on the western shore of Rudyard Lake. It lies at the southern end of a ribbon of development which lines this side of the shoreline.

The accommodation is set out over three floors with a bedroom, snug, w.c. and store at the lower ground floor, a kitchen/dining and living arrangement with external decking and a second bedroom with shower at first floor as shown on the submitted drawing. For the purposes of the development plan the application site lies within both the North Staffordshire Green Belt and the designated Rudyard Conservation Area.

3 APPLICATION

The application is to establish, in the form of a Certificate of Lawful Existing Use, that :-

- (i) The application building as identified in red on the accompanying site location plan numbered 2025-299-02 which was permitted as a replacement boathouse with ancillary accommodation was in fact constructed as per the submitted plan numbered 2025-2999-01 without complying with condition 9 of planning approval and has remained as such in excess of 10 years and therefore its use as a self contained unencumbered open market dwelling with domestic accommodation across all three floors is now lawful through the passage of time.

4. LEGAL & POLICY

This is a certificate of lawful use application and for the avoidance of doubt it should be noted that the planning merits of the use, works or operations referred to in this certificate of lawfulness are not relevant, and are not therefore an issue to consider in the context of this application.

Section 191 of the Town and Country Planning Act 1990 (the 1990 Act) provides for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a lawful development certificate. A certificate is a statutory document certifying the lawfulness for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition.

The Act, as amended, requires planning authorities, upon application, where the appropriate evidential tests are considered to be met, to grant a certificate stating that an existing use of land, operational development, or activity in breach of planning condition, is lawful. Where the evidence submitted does not support the lawfulness of the existing use, then it would fall to the Planning Authority to refuse the application. Unlike a conventional planning application, each application for a Certificate of Lawfulness of an Existing Use or Development (CLEUD) is assessed entirely on its available factual evidence about planning history, the interpretation of any relevant planning law or judicial authority and judged on 'the balance of probabilities'.

Moreover the Courts have held (see *F W Gabbittas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. Guidance in the National Planning Practice Guidance confirms that an applicant is responsible for providing sufficient information to support an application for a lawful development certificate to be granted, and that if a Local Planning Authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, then there is no good reason to refuse the issuance of a Lawful Development Certificate.

5. DETERMINING ISSUES

Before setting out the determining issues it is important to note that historically this site was referred to as Stoney Bank, Reacliffe Road, Rudyard, ST13 8RS whereas in more recent years circa 2010 onwards it has been known as Lakeside, Reacliffe Road, Rudyard, Staffordshire, ST13 8RS. The two addresses are interchangeable but for the purposes of this report the site shall be referred to as Lakeside. To add further confusion, it should also be noted that on the decision notice the planning approval reference is stated as 08/00931/FUL but on the council's website it has been allocated a new reference number of SMD/2008/0105. Again for the purposes of consistency this statement adopts the new reference of SMD/2008/0105 but essentially the two are one and the same and interchangeable.

This submission seeks to demonstrate that the application building as edged red on the submitted location plan numbered 2025-2000-02 has been used as a self contained and unencumbered dwelling without any restriction on its use (i.e holiday occupancy/ancillary) and without compliance with the approved drawings (03, 02, 19, 20 and 21) or condition 9 of planning permission SMD/2008/0105 which required the lower floorspace shown on approved drawing number 20 to be used solely for boat storage and incidental equipment for outdoor recreation for a continual period in excess of 10 years from the date of the first breach of planning control and its use therefore as a C3 dwellinghouse is now lawful in the context of paragraph 171B of the Town & Country Planning Act 1990 (as amended).

Lawful use of building for residential use

Section 171B of the Town & Country Planning Act 1990 (As Amended) confirms that where there has been a breach of planning control that doesn't involve building, engineering, mining or other operations, in on over or under land or doesn't involve the change of use of a building to create a single dwellinghouse, no enforcement action may be taken after the end of a period of ten years beginning with the date of the breach.

The council's website shows that planning permission for extensions and alterations to the application building were permitted under application SM98-1015. A subsequent application SMD/2004/1421 (04/01000/FUL) which sought to renew this application was submitted to the council on the 11th August 2004. The case officer delegated refers to the previous application SM98-1015 and acknowledges that the application was reported to committee as a "rebuild scheme" and that despite the committee report acknowledging the proposed occasional use for weekend accommodation no occupational restriction was imposed. The case officer report goes on to acknowledge that whilst works had commenced on site at the time of the 2004 application they did not constitute a legal commencement in terms of building operations. The 2004 application therefore was a precautionary submission to safeguard the permission. Subsequent applications ensued with applications in 2005 for a dwelling (SMD/2005/0264) and a holiday let (SMD/2025/01115) both refused.

An application for a replacement boathouse was refused under application SMD/2007/1239 on the grounds of its size and the impact it would have on a tree. A subsequent application which reduced the size of and scale of the replacement boathouse and moved it forward to avoid the tree and have

a better relationship with the lake was submitted under application SMD/2008/0105 (old reference number 08/00931/FUL).

The decision notice (a copy of which has been attached at Appendix 1 to this statement) imposed the following condition (referred to as condition 9 on the approval notice):

“The lower floorspace shown on approved drawing no 20 shall be used solely for boat storage and incidental equipment for outdoor recreation and for no other purposes including domestic floorspace without agreement in writing with the Local Planning Authority.” The reason given for imposing the condition is stated as:

“The decision is on the basis of a replacement boathouse with ancillary accommodation. The change of use of this floorspace would be inappropriate development in this Green Belt setting contrary to Policy N2 of the Staffordshire Moorlands Local Plan”.

Approved drawing 20 (copy attached at Appendix 2) provided for the following accommodation

Lower Ground Floor	
• External deck • Boat house / workshop • Tackle storage • Changing room • Toilet	
Upper Ground Floor	
• Terrace • Kitchen / dining/ living area	
First Floor	
• Sleeping Deck comprising of a double bed space accessed via a spiral staircase • Shower room	

The applicant, Mr John Shaw, purchased the site on 21st January 2010 from Mr David Frederick & Eileen Maria Bradley(the applicant's of the previous applications) as per the title document provided at Appendix 3.

Mr John Shaw commenced work on the development as soon as the property transfer had been completed. Whilst the upper ground floor plan and first floor plan of the development were largely carried out in accordance with the approved plan drawing 20, subject to some minor elevational changes, the lower ground floor plan was completed in accordance with submitted drawing 2025-2999-01 which shows that contrary to condition 9 the whole of this floor area was given over to providing habitable accommodation in the form of a bedroom, separate snug, w.c and store. It should be noted that in the approved plans the lower ground floor accommodation could only be accessed externally however in the scheme as constructed the lower ground floor was and remains to be accessed via a spiral staircase as shown on the submitted plan.

In support of the application I attach, at appendix 4, a copy of an email from Mr Stephen Mansfield. Stephen Mansfield is a registered Building Inspector who has previously been employed in this role by Staffordshire Moorlands District Council. During his time at the Authority Mr Mansfield can recall attending the property in his role as a Building Inspector with the Local Authority and confirms that "the works which were undertaken to the lower ground floor to create habitable accommodation was carried out and completed as part of the main Building Regulation which was duly completed and certified upon the satisfactory completion of the works onsite". The fact that Mr Mansfield's statement makes reference to **habitable** accommodation (my emphasis) on the lower ground floor is particularly helpful as whilst the approved scheme proposed a toilet and changing room neither of these functions could be reasonably held to constitute habitable accommodation. Mr Mansfield's statement therefore corroborates the applicant's statement that the lower ground floor area of the building was given over to domestic accommodation which was directly contrary to planning condition 9 appertained to the planning approval relating to application SMD/2008/0105. Unfortunately due to the passage of time the applicant does not have a copy of the certified building control records and these are not available as a public record. The council does however have, within their control, access to such restricted documents and a quick search of the property's history will indeed confirm that the building works associated with planning approval SMD/2008/0105 were not carried out in accordance with the approved plans and that the lower ground floor area was given over to provide domestic accommodation and that condition number 9 has therefore been breached.

The applicant has provided a copy of an air tightness test report at appendix 5. This document which is dated 20th July 2010 clearly refers to the application building as Lakeside and would not have been a requirement if the building was merely to be used as a boathouse.

In addition a certificate (appendix 6) from Silver Sparks Electrical dated 1st December 2013 authorised by NAPIT described the work undertaker at the property, the address of which is clearly stated on the document, as a "New full electrical installation (new build) house/dwelling". This document was submitted to the LPA as part of the building regulations approval.

The applicant has provided a copy of the building regulations certificate of completion at appendix 7. This provides the council with a reference number of SFP/2020/0192 and confirms that the works were indeed completed and signed off on the 12th September 2014. This document clearly confirms that these works were signed off more than 10 years ago and that the breach has therefore endured well in excess of the required 10 year period in order to gain immunity.

Furthermore, the Rudyard Conservation Area Appraisal (copy attached at Appendix 8) adds further weight to the applicant's claim. This document, which was adopted by Staffordshire Moorlands District Council in July 2016, states in the final paragraph on page 23 the following:

*"A number of old chalets have been given planning permission for replacement structures: St. Elmos Chalet, c1907, a replacement dwelling approved in 2002 & 2004; Hideaway, a replacement holiday home approved in 2007; Sandy Cove, a replacement 'dwelling' approved in 2003; a very substantial holiday home, Lake View, reconstruction of chalet approved in 2004; **Lakeside House, a holiday chalet, formerly known as Stoney Bank, replacement approved in 2008 - a lower deck boathouse was approved but is in use as accommodation**; Slipways, a replacement holiday chalet with integral small garage-style boat-house was approved in 2011; Sheiling, a replacement chalet was approved in 2003; Red Roofs, a traditional black-and-white chalet, formerly a chalet/boathouse before 1948 but a replacement permanent dwelling approved in 2010."*

This provides clear and unambiguous evidence that the boathouse which was permitted was not constructed and that the lower ground floor, where the boathouse should have been provided, was actually in use as accommodation. Whilst it is accepted that this document was not adopted until July 2016 and at the time of this submission falls a few weeks short of the necessary 10 year requirement it should be noted that such a publication was, as set out in the Introduction on Page 1, subject to a degree of consultation and public participation. It is not therefore unreasonable to assume that this would have taken place over a period of months prior to its adoption and that work on the conservation area appraisal itself would have taken place many months in advance of this. Indeed the council's records indicate that the decision to approve the draft Rudyard Conservation Area Appraisal was ratified at the Council's Cabinet meeting on 1st December 2015 as shown by the report and minutes contained in Appendix 9 & 10 of this report. A copy of the draft Rudyard Conservation Area Appraisal referred to as appendix D in the Cabinet Report is provided at Appendix 11. It is pertinent to note that the draft version of the appraisal contains at page 21 under the sub heading of Chalets the same description of Stoney Bank as in the adopted version of the appraisal. Therefore the draft publication of the Rudyard Conservation Character Appraisal provides clear and unambiguous confirmation that the lower ground floor of the building was indeed in use as accommodation rather than a boathouse at 1st December 2015 and therefore has been in breach of condition 9 for an uninterrupted period in excess of 10 years and that the breach of condition is now immune from enforcement action.

The decision notice relating to application SMD/2008/0105 referred to the development as a "replacement boathouse". Condition 9 of the permission which, as set out above, required the lower floorspace on drawing 20 to be used solely for boat storage and incidental equipment for outdoor recreation only. The reason for imposing this condition was stated as being "The decision is on the basis of a replacement boathouse with ancillary living accommodation. The change of use of this floorspace would be inappropriate development in this Green Belt setting contrary to Policy N2 of the Staffordshire Moorlands Local Plan."

Informative 2 of the decision notice referred to the above stated that "The applicant is reminded that this decision does not convey any approval for the use of the site as a dwellinghouse as defined in Class C3 of the Town and Country Use Classes Order, 1987."

Notwithstanding it has been clearly demonstrated that the above the application building was approved with all the facilities to allow it to be used as a self contained dwelling. The

accommodation was not restricted to holiday use via a planning condition or S106 agreement although there was, as discussed above a condition preventing the lower ground floor of the unit to be used for accommodation. Furthermore, it could be argued that the domestic use of the building could not be ancillary to the boathouse due to the fact that the domestic accommodation was laid out over 2/3 of the building with just 1/3 given over to the boathouse.

The applicant moved into the dwelling following its completion and it has been his permanent residence from then until the present date. The building is registered for council tax as a dwelling and council tax has been paid by the applicant continually from its registration to present day. The registration of the property for council tax purposes confirms that the use of the property was not ancillary but that it was registered as a dwelling in its own right. A number of council tax demand notices covering the period 2014/2015-2025/2026 have been provided (at Appendix 12 to substantiate this. Further evidence is provided by the applicant's bank statements (attached at Appendix 13) which are addressed to Mr J C Shaw at Lake Side, Reacliffe Road, Rudyard, Leek, Staffordshire, ST13 8RS. These have been provided over a period of 26th June 2013 to 5th January 2021. These private and confidential documents have been sent to the applicant's sole and permanent residence.

6. CONCLUSION

For the reasons set out within the planning statement above it is considered that it has been clearly demonstrated that the boathouse / workshop and tackle storage area previously approved under application SMD/2008/0105 was never provided and that the lower ground floor area was given over entirely to domestic accommodation comprising of a single double bedroom, with separate snug, w.c. and store accessed via an internal spiral staircase leading from the upper ground floor. The application building was therefore constructed as a stand alone unencumbered domestic property without any restriction on its occupation or use and that the entire three floors of accommodation have been used by the applicant as a self contained dwellinghouse without any restriction or impediment on their use. The residential use of the building could not be ancillary to the boathouse as the boathouse was never provided as part of the application. The information is sufficiently clear and unambiguous and adequately demonstrates that the dwelling as erected and its use as such has clearly been carried out in excess of 10 years and that those operations and uses are therefore now lawful through the passage of time. Having regard to these conclusions, the Local Authority is respectfully requested to issue a Lawful Development Certificate to confirm that these developments are lawful and therefore immune from enforcement action.