

LAWFUL DEVELOPMENT CERTIFICATE TO REMOVE AGRICULTURAL OCCUPANCY CONDITION - SUMMARY

Application site address: Midhaven, Old Fendyke, Sutton St James, Lincs, PE12 0HE.

Introduction

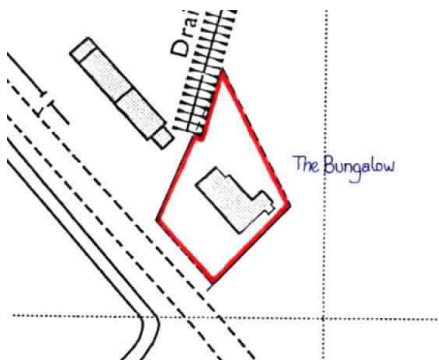
This application seeks to continue occupation of a dwelling without complying with an agricultural clause outlined under condition of the original planning approval, via a lawful development certificate as a result of sufficient time having passed for it to qualify as lawful through time. Reason for this application is so that the applicant and/or any future occupiers of the dwelling known as Midhaven can remain on site without being in breach of a very outdates occupancy condition.

The applicant Mr Glen McBride owns and lives on site. It is believed that the bungalow was originally built in the early 1970's, and that the surrounding land was split from the bungalow in 1980, which was originally all part of one holding belonging to White House Farm.

Occupancy Condition

We have not been able to find the exact planning reference for the dwelling or the original wording of the condition on SHDC's historic database, but looking at other similar applications it will be that the occupier must either undertake agricultural operations on site, or that the occupant works in agriculture within the wider area.

Over time the land originally attached to the property has been split and sold off by previous owners (approx. 12 years ago), this leaves the property with insufficient land for any form agricultural activity large enough to sustain the occupants of the dwelling. As a result, the only way an occupier could comply with the occupancy condition would be to work in agriculture within the wider area.



With that being said, this application can prove that the occupancy condition has been breached for 20 years, as explained later on within this document.

Pre-Application Advice

Prior to the submission of this planning application, the applicants submitted a pre-app to SHDC, ref: PE-002002-17. See pre-app comments submitted with this application.

The pre-advice confirmed that *“if the property has been continuously occupied for at least the last ten years in breach of the agricultural occupancy condition, an application can be submitted for a lawful development certificate to allow the occupancy by a person(s) not employed in agriculture.”*

This is exactly what this application seeks to prove and apply for, as outline in this supporting document.

Time Line for Breach of Condition

The applicant (who currently lives at Midhaven), and the previous occupants since 1997 have all been unknowingly in breach of this condition, as outlined in the timeline below:

1997 – 2010: Peter Clarke owned and lived on site; he was a welder and not employed in agriculture.

2010 – 2013: The applicant's father David McBride owned the property during this period while the applicant's sister Laura McBride lived on site, who works as a warehouse operative at Amazon in Peterborough.

2013 – Current: The applicant Glen McBride and his partner purchased the property from his father and have lived there ever since. Glen is a HGV lorry driver not associated with agriculture and his partner works in a supermarket.

This timeline proves that the occupancy tie has been in continuous breach since 1997, totaling 20 years. The owners/tenants can be cross-checked against council tax records if necessary; we were not able to obtain this information for this submission.

Precedents

There are also a number of other dwellings within the immediate area that have previously had either occupancy conditions removed, as outlined below:

Application ref H20-1390-03:

Che Sera, Old Fendyke Lane, Sutton St James, PE12 0HE had a S191 Lawful use certificate application approved in 2003 to continue the occupation of dwelling without comply with condition 2 of planning permission EE1111/70.

Application ref H20-1060-13:

Northfields, Old Fendyke Lane, Sutton St James, PE12 0HE had a S73A continuation application approved in 2013 to remove habitation condition No.2 of planning permission H20-0204-85.

Conclusion

This application has provided sufficient evidence to show that the current occupancy condition has been breached for well over the target 10 year period on an unbroken basis. We therefore ask that the occupancy condition is removed so that the applicant and/or future occupiers can continue to do so without being in breach of any condition.