

Supporting Statement

Application for a Certificate of Lawfulness of an Existing Use or Development in relation to the continuous breach of the Agricultural Occupancy Condition for a 41 year period at

Caelica Farm Bungalow
Sarn
Malpas
SY14 7LW



On behalf of Mr H.O. Ormrod & Mrs S.A. Ormrod

20th August 2022

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1 Introduction

This Planning Statement accompanies an application for a Certificate of Lawfulness of an Existing Use or Development for Caelica Farm Bungalow. It has been prepared on behalf of Mr & Mrs Ormrod who have owned the property since 1995 with the late Major James Ormrod having been the previous owner. Mrs Jenifer Jones has occupied the property as a tenant under the Rent Act 1977 since the summer of 1981. The late Mr Christopher James cohabited with Mrs Jones between 1986 and July 2021.

In 1970 Major James Ormrod obtained planning consent for Caelica Farm Bungalow under planning application number M/746 which allowed for the erection of a farm workers bungalow. One of the planning conditions imposed on the approved dwelling was an agricultural occupancy condition under sections 65 to 67 of the Town and Country Planning Act 1968. This condition restricts the occupation of the dwelling to those that are solely or mainly employed or were last employed locally in agriculture as defined in section 221(1) of the Town and Country Planning Act 1962 or in forestry and the dependents of such persons.

This application for a lawful development certificate seeks to prove that Mrs Jennifer Jones and her late partner Mr Christopher James have occupied the property as their private dwelling house for a period in excess of 10 years without complying with the Agricultural Occupancy Condition. The applicants would like to confirm that the breach of the planning condition is lawful and no enforcement action can be taken in respect of the breach.

2 Planning History

Full planning permission was granted on the 13th January 1970 for the erection of a Farm Workers Bungalow under planning reference M/746. A copy of the original decision notice is attached in **Appendix One** which gave consent for the dwelling subject to the following conditions which were not numbered:

- The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed locally in agriculture as defined in Section 221(1) of the Town and Country Planning Act 1962 or in forestry and the dependents of such persons.
- The roof covering material and tile boarding shall be blue in colour
- The development hereby permitted shall be commenced within five years from the date of the permission

Note: the quality of the decision notice is very poor given its age and as such its contents have been interpreted by the agent.

The approved farm workers bungalow was constructed by the Late Mr James Ormrod prior to the 13th January 1975. The dwelling was utilised for the accommodation of farm workers until Mrs Jenifer Jones moved in the summer of 1981 and she has continued to occupy the dwelling as her private dwelling house ever since without any interruptions.

3 Breach of the Condition

The condition limits the occupancy of the approved dwelling to a person solely or mainly employed or last employed locally in agriculture as defined in Section 221(1) of the Town and Country Planning Act 1962 or in forestry or the dependents of such persons. This clause was breached in 1981 when Mrs

Jenifer Jones moved into the property as she has never been solely or mainly employed or last employed in the locally in agriculture as defined in Section 221(1) of the Town and Country Planning Act 1962 or in forestry. In addition she has not been a dependant of a such person for the entirety of her occupation of the dwelling.

Mrs Jenifer Jones worked full time as a laboratory assistant for ABP meats between 1999 and 2015. Mrs Jones has been retired since 2015. Mrs Jones's late partner Mr Christopher James moved into the property in 1986 and cohabited with her until his death on the 19th July 2021. Christopher James was made redundant in 2008 from his role as an archery equipment salesman for Bow Plus and took early retirement. Attached in **Appendix Two** is a statutory declaration signed by Mrs Jenifer Jones in the presence of Mr Antony Newness; a Commissioner for Oaths. The declaration confirms that she has lived without interruption in Caelica Farm Bungalow for a period in excess of ten years without complying with the agricultural occupancy condition. In addition Mrs Jones has confirmed that to the best of her knowledge the Late Mr Christopher James lived in the property until his death without complying with the agricultural occupancy condition.

The Applicants Mr & Mrs Ormrod can confirm that Mrs Jenifer Jones has been the tenant of the property for the entirety of their ownership since the death of the late Mr James Ormrod in 1995. There has never been a written tenancy agreement for the rental of the property but the nature of the Tenancy falls under the Rent Act 1977. Mrs Jenifer Jones has occupied the dwelling continuously and has always paid her rent by a cheque posted each month.

4 Planning Context

The following is an extract from Section 171B of the Town and Country Planning Act 1990 (as amended) for Time Limits in the Enforcement of Planning Policy and Conditions:

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.*
2. *Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.*
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.*
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 following extract from Section 191 of the Town and Country Planning Act 1990 (as amended) outlines the national planning policy for the granting of Certificate of lawfulness of existing use or development:

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 matter.
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.*
3. *For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if:*
 - a. *the time for taking enforcement action in respect of the failure has then expired; and*
 - b. *it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.*

In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

 - a. *the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,*
 - b. *an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or*
 - c. *a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.*
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.*

Mrs Jenifer Jones and the Late Mr Christopher James have lived in Caelica Farm Bungalow for a total period of 41 years in breach of the agricultural occupancy condition. This condition was attached to the planning application approved under reference number M/746 by the Local Planning Authority

dated the 13th January 1970. Given this was a continuous breach for a period in excess of ten years it is now immune from enforcement action and therefore considered to be lawful.

5 Conclusion

This application is seeking to confirm that Caelica Farm Bungalow has been occupied in breach of the agricultural occupancy condition enforced by planning reference M/746 for in excess of 10 years. In accordance with the Town and Country Planning Act 1990 the continuous breach of the existing planning permission is now immune from enforcement action.

Mrs Jones has confirmed the breach of the planning condition in the form of a statutory declaration. This conclusively proves that the occupants of Caelica Farm Bungalow have not been employed in agriculture in the last ten years and that they have lived in Caelica Farm Bungalow without interruption for the past 41 years.

It is therefore requested that Wrexham County Borough Council in their capacity as the Local Planning Authority issue a Lawful Development Certificate to confirm that the continued breach of the condition imposed under reference M/746 is immune from enforcement action.

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The development hereby permitted shall be commenced within five years from the date of this permission.

To comply with the requirements of Sections 45 to 47 of the Town and Country Planning Act, 1958.

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W. L. Higgins
12-2-194

Appendix Two – Mrs Jenifer Jones Statutory Declaration

Jennifer Jones Statutory Declaration

I, Mrs Jennifer Jones of Caelica Farm Bungalow, Sam. Malpas, SY14 7LW do solemnly and sincerely declare as follows:

In the summer of 1981 I moved into Caelica Farm Bungalow as my permanent private residence and I have lived in the property ever since without interruption. The property is identified on the plan exhibited hereto marked "JJ1" for reference purposes. I have rented the dwelling off the Ormrod family of Pickhill Old Hall, Cross Lanes, Wrexham, LL13 0UE with a tenancy under the Rent Act 1977

I have been retired since 2015 and my previous employment was as a laboratory assistant at ABP meats with the address The Abattoir, Hordley, Ellesmere, Shropshire, SY12 9BL. I worked at ABP for 16 years with my employment starting in 1999. I have never been solely employed or last employed in agriculture as defined in section 221(1) of the Town and Country Planning Act 1962 or in forestry. I have not been the resident dependent of such a person working in agriculture or forestry for the entirety of my inhabitation of Caelica Farm Bungalow.

In 1986 my late partner Mr Christopher James moved into Caelica Farm Bungalow and he lived in the dwelling as his permanent private residence without interruption until he died on the 19th July 2021. He was made redundant in 2008 from his previous employment as an archery equipment salesman at Bow Plus. They were based at Gorse House, Whitchurch Road, Prees, Whitchurch, Shropshire, SY13 3JZ and the business was closed on the 16th December 2008. Following his redundancy Christopher took early retirement. To my knowledge Mr Christopher James was never solely employed or last employed in agriculture as defined in section 221(1) of the Town and Country Planning Act 1962 or in forestry. During the entirety of his inhabitation of Caelica Farm Bungalow he was not a resident dependent of such a person working in agriculture or forestry.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

J Jones

Declared at: Malpas this ^{4th} 6 day of August 2022

Before me

Anthony Newman

ANTHONY NEWMAN
COMMISSIONER FOR OATHS
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WREXHAM LL12 7AJ