

Supporting Statement

Application for the Removal of the Agricultural Occupancy Condition at

The Bungalow
Cae Lica Farm
Sarn
Wrexham
SY14 7LW



Prepared by Ellie Ormrod MRICS FAAV

30th October 2022

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1 Introduction

This Planning Statement accompanies an application for the removal of the agricultural occupancy condition at Caelica Farm Bungalow. It has been prepared on behalf of **Mr and Mrs Jones** who have owned the property since 1995.

An application for a Certificate of Lawful Existing Use and Development (CLEUD) was submitted in August 2022 relating to the non compliance of the agricultural occupancy condition. The use was considered lawful on the 22nd August 2022 in a notice dated the 10th October 2022 under planning reference P/2022/0771 which is attached in **Appendix Two**.

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, in the summer of 1981. The agricultural occupancy condition has been continually breached since 1981.

A CLEUD was granted on the 10th October 2022 by Wrexham County Borough Council under planning reference P/2022/0771. This certifies that on 22nd August 2022 the development in respect of the land edged red on the plan attached to this application would be lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 as amended. On the basis that the Council is satisfied that the condition has been breached for a period of longer than 10 years. With reference to the Decision Notice in **Appendix Two**.

3 Planning Context

This report has been written with regard to National Planning Policies.

National Planning Policy Framework (NPPF) July 2018

Paragraph 79 within Section 5, Delivering a Sufficient Supply of Homes, of the NPPF states:-

'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential dwelling; or*
- e) *the design is of exceptional quality, in that it:*
 - *is truly outstanding or innovative, reflecting the highest standard in architecture, and would help to raise standards of design more generally in rural areas; and*
 - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'*

Planning Conditions

The National Planning Policy Framework (NPPF) sets out when and how planning conditions should be used;

Paragraph 54

"Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

Paragraph 55

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commencements should be avoided, unless there is a clear justification."

Planning Practice Guidance

The Planning Practice Guidance explains how conditions attached to a planning permission should be used and discharged effectively.

Paragraph 003 states:-

"Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following test:-

- 1 *necessary;*
- 2 *relevant to planning;*
- 3 *relevant to the development to be permitted;*

- 4 *enforceable;*
- 5 *precise; and*
- 6 *reasonable in all other respects*

These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply.

4 The Case

The consequence of the CLEUD is that the agricultural occupancy condition has no effect on the occupation of the dwelling as it can be occupied by anyone not just those employed in agriculture or forestry. Therefore the condition is now unenforceable and the Local Planning Authority has no ability to enforce compliance.

As the condition is no longer enforceable, the need issue in National Planning Policies no longer applies. It would, for example, not be practical to market the property for sale to prove a lack of need when effectively the condition has no effect. In addition the Bungalow could not be advertised for sale at a discount as it is worth its full open market value.

5 Conclusion

The dwelling is subject to a CLEUD which confirms that the non compliance of the agricultural occupancy condition is lawful. Therefore the agricultural occupancy condition is unenforceable and the key test of what is reasonable and necessary in national planning policy is no longer applicable and therefore the agricultural occupancy condition should be removed.

11/74-612f

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The roof covering material and tile having still to blue in colour.

The Local Planning Authority's policy states that new houses in open country should not normally be permitted unless there is a special need having regard to agricultural or other rural interests.

In the interests of the visual granities of the area.

To comply with the requirements of Sections 45 to 47 of the Town and Country Planning Act, 1968.

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H. L. Higgins
1938

Appendix Two – Certificate of Lawful Use or Development

In pursuance of its powers under the Acts and Orders referred to below, the County Borough Council as Local Planning Authority, hereby determines your application in accordance with the particulars and plans comprising the application



Applicant	MR & MRS ORMROD	Code Number	WOR P /2022 /0771
Agent	ELLIE ORMROD 26 BANGOR ROAD OVERTON WREXHAM LL13 0HB	Date Received	22/08/2022
		Decision Date	10/10/2022

Town and Country Planning Act, 1990
Section 191 (as amended)

Certificate of Lawfulness of Existing Use or Development

THE BUNGALOW, CAE LICA FARM, SARN, WREXHAM, , SY14 7LW

TYSTYSGRIF DATBLYGIAD CYFREITHLON AR GYFER DEFNYDD
PRESENNOL - DEFNYDD ANNEDD HEB GYDYMFFURFIO GYDAG AMOD
DEILIADAETH AMAETHYDDOL / LAWFUL DEVELOPMENT CERTIFICATE
FOR EXISTING USE – USE OF DWELLING WITHOUT COMPLIANCE WITH
AGRICULTURAL OCCUPANCY CONDITION

The Wrexham County Borough Council hereby **certifies** that on 22/08/2022 the development in respect of the land edged red on the plan appended to this certificate would be lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 as amended for the following reason(s):

REASON(S)

The Council is satisfied that the condition has been breached for a period of longer than 10 years.

In reaching this decision the Council has had regard to the following:

The supporting documentation supplied by/on behalf of the applicant(s).


Signed:

Dated: 10/10/2022

Applicant MR & MRS ORMROD
Agent ELLIE ORMROD
26 BANGOR ROAD
WREXHAM
LL13 0HB

Code WOR P /2022 /0771
Number
Date 22/08/2022
Received 10/10/2022
Decision
Date



Notes:

1. This Certificate is issued solely for the purposes of Section 191 of the Town and Country Planning Act (as amended).
2. It certifies that the use/operations specified above would be lawful on the land specified on the date specified and would therefore not be liable to enforcement action under Section 172 of the Act on that date.
3. This Certificate applies only to the matter(s) described above. Any matter(s) which is/are materially different to that/those described or on any other land may render the owner/occupier liable to enforcement action.

A handwritten signature in black ink, appearing to read 'David Fitzsimon'.

David Fitzsimon
Prif Swyddog Yr Economi a Chynllunio
Chief Officer Economy and Planning

Refer to Statement of Applicant's Rights and General Information on our planning web site at:-

http://www.wrexham.gov.uk/english/planning_portal/publications/info_sheets.htm

