Application for Certificate of Lawfulness for Existing Occupation of Priory Farmhouse

PRIORY FARM, BROUGHTON GIFFORD, MELKSHAM, SN12 8LN

George J L King MRICS FAAV MBIAC
WEBBPATON, THE DAIRY, HOOK, ROYAL WOOTTON BASSETT, WILTSHIRE

Contents

1 INTRODUCTION 2
2 PLANNING LEGISLATION 3
3 SUPPORTING EVIDENCE 4
4 CONCLUSION 5

1 INTRODUCTION

1.1 WebbPaton have been instructed by Mr and Mrs Cleverley to submit a planning application to discharge Condition 2 of the planning permission referenced 3733 (147/W/66) which was granted in 1966. In 1966 Mr and Mrs Cleverley gained planning consent for 'site clearance for the erection of a farm dwelling and stock buildings at Melksham Road, Broughton Gifford'. Mr and Mrs Cleverley have been in occupation of the dwelling since its construction and retired from farming in 2010.

1.2 Priory Farmhouse is a detached rural property that was permitted in 1966 under planning application reference 3733 (147/W/66). The development was permitted on 28th March 1966 and was restricted by condition 2, which is as follows:

'*The occupation of the dwelling shall be limited to persons employed locally in agriculture as defined in Section 221 (1) of the Town and Country Planning Act, 1962, or in forestry, and the dependants of such persons.'*

1.2 This application seeks a Certificate of Lawfulness to formalise that Priory Farmhouse has been continuously occupied by individuals that do not comply with the original occupancy condition for the planning permission granted in 1966. This planning statement sets out the relevant evidence associated with the application.

2 PLANNING LEGISLATION

2.1 Section 191 of The Town and Country Planning Act (1990) sets out the legislation for Certificate of Lawfulness of existing use or development. Paragraph 2 sets out that any uses and operations are lawful at any time if '*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 for any other reason)*'.

2.2 Paragraph 3 sets out that any failure to comply with any condition subject to which planning permission has been granted is lawful if '*the time for taking enforcement action in respect of the failure has then expired'.*

2.3 Section 171 of the above act sets out the time limits for enforcement action.

- '*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.*
- *Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach…*
- *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.*'

2.4 Section 191 states that if the local planning authority are provided with evidence and information that satisfies them of the lawfulness of the use or development, a certificate should be issued. Section 3 of this report sets out the evidence and information proving the occupation of Priory Farmhouse has been in breach of the planning condition for over 10 years, and therefore is lawful according the planning policy above.

3 SUPPORTING EVIDENCE

3.1 Priory Farmhouse has always been occupied by Mr and Mrs Cleverley since its construction. Mr and Mrs Cleverley, trading as RF Cleverley, satisfied the requirements of Condition 2 of the 1966 planning permission until their agricultural business ceased in September 2010.

3.2 This reports sets out the supporting evidence in relation to the above. Although Priory Farmhouse has been occupied in breach of the condition for over 12 years, as the planning policy in Section 2 of this report states 10 years needs to be demonstrated, we have provided evidence in relation to the cessation of the agricultural business in 2010.

3.3 RF Cleverley ceased the agricultural business on 3rd September 2010 when the last of the cattle was sold. Confirmation of this is detailed on the attached Record of Movements entry included with this application. In 2011, Priory Farm farmland was let on an unwritten tenancy to Mr Richard Gale of Reeves Farm, Bratton, BA13 4SA. Mr Gale farmed the land until 2016. From 2016 until present, the land has been farmed by Mr Jim Ovens of Coppice Farm, Broughton Gifford, Melksham. These tenants are not immediate family to, nor are they full time employees of the applicants, nor have they ever occupied Priory Farmhouse. Therefore, there has been a proven breach of condition 2 for a continuous period in excess of 10 years and the occupation of Priory Farmhouse is considered lawful, without falling subject to the prescription of Condition 2, as per the Town and Country Planning Act legislation set out in section 2.

3.4 At no point in this time have the Applicants received an enforcement notice, nor an inspection by the Local Planning Authority to ensure they are complying with condition 2.

3.5 The following list of evidence accompanies this Certificate of Lawful use to prove the continuous breach of Condition 2 of the 1966 planning permission for Priory Farmhouse.

- A signed statutory declaration from Mr Richard Cleverley.
- A signed statutory declaration from Mrs Sheila Cleverley.
- A signed statutory declaration from Mr Richard Gale.
- A signed statutory declaration from Mr Jim Ovens.
- The last page extract from RF Cleverley Record of Movements, Identifications, Births and Deaths. The right hand column on the last line details the number of cattle kept at Priory Farm was reduced to 0 following the last sale on 3rd September 2010.

3.6 These documents are CONFIDENTIAL and should only be considered by the planning officer assigned the case.

4 CONCLUSION

4.1 The council must consider the evidence put forward in the case of an application for a Certificate of Lawful development for an existing use. If the council has no evidence itself, nor any from others, to contradict or otherwise make the applicants' version of events less than probable, there is no good reason to refuse the application.

4.2 The planning policy sets out that any other breach of planning condition will be lawful after 10 years, provided that the use is continuously in breach of such condition and no enforcement action has been taken during this time. The occupation of Priory Farmhouse has been in breach of Condition 2 since 2010.

4.3 Various forms of evidence have been provided to the council, and there is no evidence that we are aware of to contradict this. The statutory declarations are of particular importance, given that Mr and Mrs Cleverley have been in ownership of the property since its construction, and they have direct knowledge of the use in question, and it is unlikely that anyone would have more knowledge of the property than those who built it themselves.

4.4 I trust you have sufficient information to grant my clients Certificate of Lawfulness. Should you need any further information, please do let me know.