51-61 Castle Street
Salisbury
Wiltshire
SP1 3SU

01722 424515
rural@w-w.co.uk
w-w.co.uk

Our Ref: AW/5711

Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

16th August 2023

Dear Sir/Madam

Application Site:	**Moorcroft, Oakley Farm, Dinton, Wiltshire SP3 5EU**
Proposal:	**Lawful Development Certificate for non-compliance with Agricultural Occupancy Condition 4 of Planning Permission Ref S/89/1073/TP**
Applicant:	**Mr C. Woodford**

We are instructed by Mr C. Woodford to investigate the history of occupation of the residential dwelling known as 'Moorcroft' situated at Oakley Farm, and compliance with the Agricultural Occupancy Condition (AOC) attached to permission ref. S/89/1073/TP. Our investigation leads us to believe that the applicant is entitled to a Lawful Development Certificate (LDC) owing to the continuous non-compliance with the AOC for a period exceeding ten years.

The following documentation is enclosed to support the application:

- Location Plan ref. CJS1;
- A copy of the decision notice ref. S/89/1073/TP and associated plans, dated 2nd June 1989;
- Signed Statutory Declarations of Mr Christopher Snell and Mrs Susan Snell;
- Supporting Evidence (details below), and
- An 'Application for a Lawful Development Certificate for an Existing use or Operation or activity including those in breach of a planning condition', duly signed and completed, submitted via the Planning Portal and
- The fee of £462 will be paid via the Planning Portal.

Background

The dwelling was granted planning permission by Salisbury District Council (ref: NFR S/89/1073/TP) on 2nd June 1989 and contains an agricultural tie to the property.

Condition 4 states:

"The occupancy of the dwelling shall be limited to a person solely or mainly employed, or last employed, in agriculture in the locality, as defined in Section 290 (1) of the Town and Country Planning Act 1971, or in forestry (including the dependents of such person residing with him) or a widow or widower or such a person."

Since 1997 (to date), the property has been occupied by Mr Christopher Snell and his wife as their sole residence uninterrupted. For the entire period of their occupancy, Mrs Snell have been in breach of Condition 4 attached to the property. Mr Snell worked on the farm until 2006, but since then has not worked in agriculture. Since 2006 (17 years), neither Mr nor Mrs Snell have been 'employed or last employed in agriculture' while living at Moorcroft at Oakley Farm.

Documents enclosed provide evidence to demonstrate there has been an uninterrupted breach of the above condition for at least ten years.

Statutory Basis

The Local Planning Authority (LPA) is not entitled to consider the planning merits of an LDC application. The purpose of an LDC is to simply establish that an existing use or development is lawful and therefore immune from enforcement.

In determining an application for an LDC, the legal test of the evidence submitted is on *the balance of probability* of the breach of condition having taken place for at least ten years. The onus is on the applicant to provide evidence to support an LDC application. However, the courts have held that such evidence does not need to be corroborated by any other (independent) evidence in order to accept it. The requirement is that the evidence submitted is sufficiently precise and ambiguous to support the granting of an LDC. If this is the case, there is no good reason for the LPA to refuse such an application.

As a consequence, the submitted evidence has sought to provide precise and unambiguous information to enable the LPA to determine the application based upon the balance of probability. The applicant reserves the right to submit further evidence should such become available to assist this process. The applicant also reserves the right to respond to any evidence submitted by any third party.

Description of Supporting Evidence

The applicants have provided a Statutory Declaration each, signed in the presence of a solicitor. These can be summarised as follows:

- Mr Christopher John Snell has lived at the property at Oakley Farm since 1997, when it was owned by Mr John Kenneth Woodford. At that time, Mr Snell worked for Mr Woodford as a chicken farm manager. However, Mr Snell ceased working in an agricultural capacity at the farm in 2006. Since 2006, Mr Snell has been self-employed as a handyman; worked for 'Toolstation' as a supervisor and currently is employed by 'Home Front' where his role is to construct playgrounds. A copy of Mr Snell's payslip at the farm (dated 1998) is enclosed, along with a copy of his 'Homefront' P60 from 2023 as evidence.

- Mrs Susan Snell worked in the care industry from 1998 until a new job as a framer in August 2018. Mrs Snell has never worked in agriculture. Dated copies of Mrs Snell's employee contracts for both jobs are enclosed as evidence.

It is contended, from the evidence submitted, that there has been a continuous, uninterrupted breach of Condition 4 for in excess of ten years preceding the date of this LDC application as Mr and Mrs Snell have been mainly and lastly employed in non-agricultural or forestry related work.

I trust the above and the enclosed provide you with sufficient information to validate this application and to progress it towards determination. The applicant looks forward to receiving the Certificate in line with the statutory time period, however, should you require any further information, please do not hesitate to contact me at the above address.

Yours faithfully



Alison Whalley BA (Hons) DipTP MRTPI
Planning Consultant

