

**SUPPORTING STATEMENT IN RESPECT OF AN
APPLICATION FOR A CERTIFICATE OF LAWFULNESS
OF EXISTING USE AND DEVELOPMENT**

Land to the rear of 2 Wellfield Close, Coedypaen, NP4 0SS

By Martin Jeffrey Taylor

Dated 10 October 2022

1. Introduction

- 1.1 This planning statement has been prepared to support an application for a certificate of lawfulness of existing use and development made in accordance with section 191(1) of the Town and Country Planning Act 1990 ('the Act').
- 1.2 The Applicant, Martin Jeffrey Taylor, considers the land at the rear of 2 Wellfield Close, Coedypaen, NP4 0SS ('the Land') to have been used as a garden in excess of 10 years prior to the date of this application.
- 1.3 The Monmouthshire County Council, as local planning authority is invited to issue a certificate of lawfulness of existing use and development which recognizes the lawful use of the Land as a garden associated with 2 Wellfield Close, Coedypaen.

2. Law and policy

- 2.1 Section 191(2) of the Act provides that uses and operations of land 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 has expired.
- 2.2 Section 192 provides that if, on an application under this section, the local planning authority are provided with information satisfying them on the balance of probability of the lawfulness (at the time of the application) of the use, operations or other matter described in the application, they must issue a certificate to that effect.
- 2.3 The Courts have held (see *F W Gabbittas v SSE and Newham LBC (1985) JPL630*) that the applicant's evidence does not need to be corroborated by independent evidence in order to be accepted. If the local planning authority has no evidence of its own to contradict or otherwise make the applicant's version of events less than probable, then there is no good reason to refuse to issue a lawful development certificate.

3. Evidence

Google Earth nevertheless corroborates the evidence set out in the statutory declarations of Martin Jeffrey Taylor, Sharon Jayne Taylor and Jonathan Mark Smith, that the Land has been used for garden purposes for in excess of 10 years.

4. Conclusion

- 4.1 It is clear that the applicant has demonstrated an evidence trail in a variety of forms proving beyond doubt that the Land has been used as a garden for 2 Wellfield Close, Coedypaen for in excess of 10 years.
- 4.2 The evidence highlights that the use of the Land as a garden is immune from enforcement proceedings by virtue of section 171(B)(3) of the Act.
- 4.3 The relevant test of the evidence in such matter is the 'balance of probabilities'. The evidence presented is far in excess of what is reasonably required by this test.
- 4.4 Following *Gabbittas*, if the local planning authority has no clear evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application.