

**TOWN & COUNTRY PLANNING ACT 1990
CERTIFICATE OF LAWFUL DEVELOPMENT**

APPLICATION ON BEHALF OF MR & MRS HILL

LAWFUL DEVELOPMENT CERTIFICATE

**USE OF LAND AS GARDEN AND BUILDINGS FOR DOMESTIC PURPOSES
(USE CLASS C3) ANCILLARY TO BROUGHTON LANE FARM,
BROUGHTON LANE, HARMSTON LOWFIELDS, LINCOLN LN5 9SY.**

April 2023
(JHG/004/23)



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1.0 INTRODUCTION

- 1.1 Section 191(1) of the Town & Country Planning Act 1990 (as amended), hereafter referred to as ‘The Act’, states: ‘(1) *If any person wishes to ascertain whether – (a) any existing use of buildings or other land 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.*’
- 1.2 Under this provision, applicants’ and land owners Mr and Mrs Hill request that the local planning authority (North Kesteven District Council) determine the lawfulness of the use of land as garden and buildings for domestic purposes (Use Class C3) ancillary to Broughton Lane Farm, Broughton Lane, Harmston Lowfields, Lincoln, LN5 9SY.
- 1.3 This document with appended evidence has been produced in accordance with Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The following serves to demonstrate that the ancillary domestic garden use of the land in question should now be deemed lawful.

2.0 DEVELOPMENT CONTEXT

The Site

- 2.1 The application site, as delineated in red upon submitted site location plan 466-H-1 (copy included in Appendix 1), encompasses an area of former agricultural land measuring 0.41 hectares situated adjoining the historic northern, eastern and southern curtilage of the dwelling Broughton Lane Farm (outlined blue upon location plan 466-H-1). Both areas of land are now under ownership of Mr and Mrs Hill following the recent purchase of the application site on 1st July 2022. A copy of HM Land Registry Title Plan LL415019 is included in Appendix 2. The entire property occupies an area of approximately 0.52 hectares.



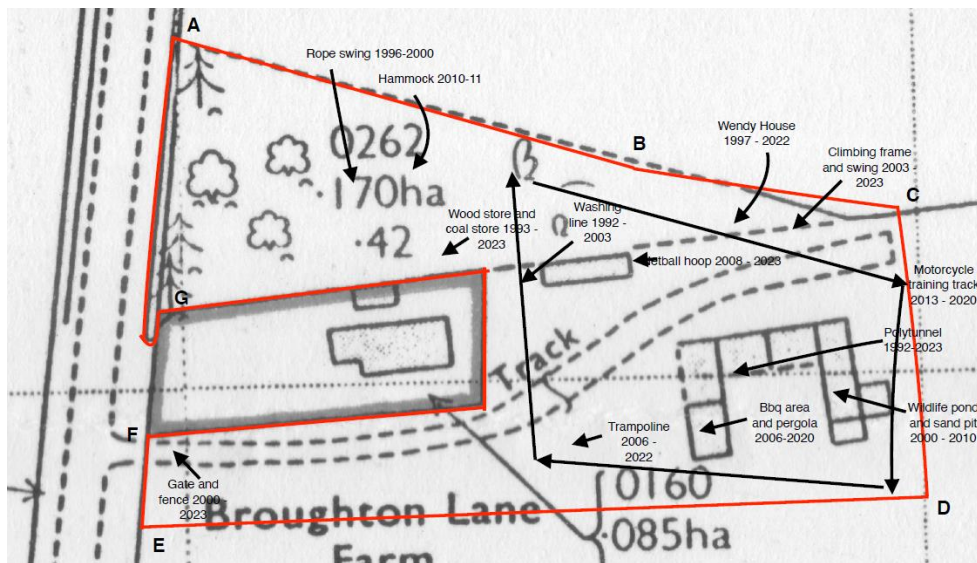
Aerial photograph dated 1999 depicting use of application site to east of dwelling as lawn, car parking area, ancillary garage and walled garden/storage.

- 2.2 As depicted upon survey plan 466-H-2 (copy also located in Appendix 1) and evident in the aerial photograph included above, the application site includes a number of former agricultural buildings. The building most proximate to the associated dwelling (located 14 metres to the east), is used as a garage. It features brick elevations and a roof clad in red clay pantiles. The southern elevation includes two tilting garage doors and two timber personnel doors. A second range of brick built sheds and walled enclosures are situated approximately 10 metres to the southwest of the garage. These include space used for ancillary domestic storage and as a walled garden/polytunnel for growing vegetables. An area of mown lawn is located adjacent to the buildings/structures. Groups of trees are located around the site periphery with a small quarter acre (0.1 hectare) managed copse area being situated to the immediate north of the dwelling.
- 2.3 Access is gained directly via use of a gate located in the hedgerow between the dwelling's formal rear garden and the application site. A dedicated vehicular access, partially surfaced with planings, also runs a course eastwards from Broughton Lane, past the dwelling's southern elevation, in order to connect with the aforementioned garage, lawn areas etc.
- 2.4 Broughton Lane Farm comprises a detached two-storey dwelling with red brick elevations and a roof clad in red clay pantiles. Its northern elevation was subject to a substantial extension in 1997. The original dwelling curtilage (outlined blue on site location plan 466-H-1) includes formal garden and a gravel surfaced private driveway that junctures with Broughton Lane. All neighbouring land is in arable use. The property, is situated approximately 2.0 kilometres to the west of Harmston and nearly 2.5 kilometres to the east of Aubourn.
- 2.5 The Environment Agency Flood Hazard Map identifies that the application site and adjacent land is located within Flood Zone 1 (low risk). There is no land of identified habitat/nature conservation importance within or adjacent to the site. The application site is not situated within or adjacent to a conservation area. It should be noted that Broughton Lane Farm (application site inclusive) is not designated as, or within the curtilage of, a listed building or scheduled ancient monument.

The Development/Use

- 2.6 The applicants' purchased Broughton Lane Farm, comprising the dwelling with access and surrounding garden (i.e. land excluding the application site and area outlined blue adjacent to the access) in December 1991 and occupied the property continuously until the present day. The property should be regarded as conventional 'market housing' and such is not bound by any planning condition, clause or legal agreement to be occupied for a purpose connected with agriculture.
- 2.7 The land surrounding Broughton Lane Farm (the application site) was, until recent purchase by Mr T. Hill and Mrs F. Hill on 1st July 2022, the freehold property of neighbouring land owners' D. F. Meanwell Ltd (farm business). The applicants' approached D. F. Meanwell Ltd company secretary Mrs Pepperdine with regard to use of the application site for garden/domestic purposes ancillary to their dwelling in 1992. This was initially permitted in an informal capacity without payment of rent. However, as stated within the letter included in Appendix 3, Mrs Pepperdine agreed to rent the

entirety of the application site to the applicants' for this purpose on 1st April 1997. At this juncture, the agricultural use of the application site, including access to the adjacent arable land, ceased in its entirety. It is emphasised that neither the applicants' nor the original land owner were aware that such comprised a material change from Use Class *Sui Generis* to Use Class C3. Even prior to being brought into domestic use, the application site was very rarely used for any agricultural purposes by virtue of the buildings thereon being small and unsuitable for modern farming methods/machinery. The land is also subject to notable tree cover and located adjacent to a dwelling, thereby making it unsuitable for agricultural implement or manure storage, cultivation etc. The application site was essentially vacant prior to the applicants' re-use for domestic activities.



Plan produced by applicants' depicting chronology and spatial distribution of domestic activities

- 2.8 As indicated on the sketch plan included above, the applicants' initially used the application site as informal garden and car parking space. From 1992 onwards, the former agricultural building located to the immediate east of the original dwelling curtilage was used as a garage (ancillary outbuilding) with washing line installed to the western elevation (evident in Photographs 2, 5 and 6 included in Appendix 4). In the same year, a polytunnel was erected amongst a range of former barns situated within the site's south-eastern confines (evident in photograph 4 of Appendix 4 and aerial photographs included in Appendix 5). The grassland surrounding these buildings was mown and used as lawn. A wood store and coal store was then formed on the edge of the copse area to the north of the dwelling the following year (1993).
- 2.9 The nature of domestic activities evolved and increased as the applicants' children grew older. In 1996, footpaths were formed in the aforementioned copse area and a rope swing installed. Following commencement of the aforementioned land rental agreement in 1997, a Wendy House was erected within the application site's north-eastern confines (this remained in situ until 2022).
- 2.10 In the year 2000, a new gate was installed at the site's access to the public highway. A wildlife pond and children's sand pit was also formed within part of the footprint of the former barns located adjacent to the site's eastern boundary. This was then removed in 2010. A climbing frame and swing were erected in the site's northern confines (adjacent

to the Wendy House) in 2003. These structures are still in situ. In 2006, a BBQ area with pergola (note photograph 3 in Appendix 4) were formed within part of the former range of barns located adjacent to the poly tunnel. This same year, a trampoline was erected within the site's southern confines (evident in photograph 8 of Appendix 4 and aerial photographs dated 2007 and 2018 located in Appendix 5) and a netball hoop installed to the eastern elevation of the ancillary garage building (still in situ).

- 2.11 Further footpaths and works were undertaken in the copse area to the north of the applicants' dwelling in 2010 and a hammock was affixed between two trees, thus allowing the area to be used more affectively as shaded garden. From 2013 onwards, an informal trackway was created around the central and eastern confines of the site. This was used by the applicants' children to ride bicycles and training with a small all terrain motorcycle (note photograph 8 included in Appendix 4).
- 2.12 The only area of land not to be continuously used for ancillary domestic purpose comprises the area outlined blue to the south of the application site. Though now under ownership of the applicants', this area comprised the northernmost confines of the adjacent field until 2019, at which point the boundary was effectively 'squared off' and cultivation ceased.

3.0 PLANNING LAW

- 3.1 With regard to time limits for enforcement action, Section 171B,(3) of the Town & Country Planning Act 1990 (as amended) states: *'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.'*
- 3.2 As expanded upon above, the Mr and Mrs Hill have used the entirety of the application site (outlined red) as domestic garden and outbuildings ancillary to the dwelling Broughton Lane Farm continuously for a period significantly in excess of 10 years (since 1st April 1997). Section 171B,(3) of the Act indicates that under these circumstances, no enforcement action can now be taken by the Local Planning Authority in respect of the use so described.
- 3.3 It is emphasised that the applicants' have not attempted to conceal the domestic garden use of the application site from the Local Planning Authority and such has not been the subject of an enforcement notice or a Planning Enforcement Order under Section 171BA(1).
- 3.4 In context of the above, section 191(2) of the Act states: *'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.'* By virtue of this provision, **the domestic use of the land and buildings addressed by this application is considered to be lawful.**

Evidence of Use

- 3.5 In accordance with Article 39,(2),(b) of the Town and Country Planning (Development Management Procedure) Order 2015, evidence demonstrating that the ancillary domestic use of the land in question was continuous over a period in excess of ten years has been submitted in support of this application. The portfolio of evidence comprises:
- Letter provided by previous land owners' D. F. Meanwell Ltd company secretary Mrs M. Pepperdine confirming that the application site was rented to the applicants' for the purposes of ancillary domestic use since 1997 until their purchase of the land in 2022 (located in Appendix 3).
 - Photographic archive provided by the applicants' depicting domestic use of land from years 1997 to 2016 (copy included in Appendix 4)
 - Google Earth Historic Imagery Database aerial photographs for years 2001, 2002, 2005, 2007, 2012, 2018, 2019, 2020 and 2022 (copy located in Appendix 5).
 - Statutory declarations made by land owners/occupiers Mr T. Hill and Mrs F. Hill, which were prepared by Bridge McFarland LLP solicitors (copy located in Appendix 6)

4.0 APPENDICES

1. Site location plan 466-H-1 and site survey plan 466-H-2.
2. HM Land Registry Title Plan LL415019.
3. D. F. Meanwell Ltd, 29th March 2023, Letter pertaining to rental of land for domestic purposes.
4. Photographic archive of years 1997 to 2016.
5. Google Earth Historic Imagery Database aerial photographs of application site from years 2001 to 2022.
6. Statutory declarations made by land owners/occupiers Mr T. Hill and Mrs F. Hill.