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4th March 2024

Dear Sirs ,

Certificate of Lawfulness (Existing) for the regularisation of the land to the south as domestic garden land associated with No. 1 Chapel Road, Wattisfield.

Location: Land to the South of 1 Chapel Road, Wattisfield, IP22 1NU

This letter accompanies a Certificate of Lawfulness application submitted to the Council via the Planning Portal. This covering letter provides an overview of the application site, proposal, and legislation position.

This submission is supported by a location and site plan showing the extent of acquired land, photographs, and a sworn Statutory Declaration by the previous owner.

The applicant purchased the property known as No.1 Chapel Road with the land to the south included as ancillary garden land in February 2024. This southern area of the property contains covenants preventing the owner from carrying out any activity/development requiring planning permission. As such, lawful use as domestic garden land is being sought through this Certificate of Lawfulness to enable the applicant to benefit from the usual householder Permitted Development rights.

Planning History (Date order):

- 0328/91 (Approved) – Erection of single storey pitched roof front entrance porch.
- 0795/92 (Withdrawn) – Erection of single storey rear extension.
- 0395/93 (Approved) – Retention of installation of 1200L liquid propane gas cylinder.
- 0587/07 (Approved) – Change of use of log-cabin for hairdressing salon/domestic.

The land to the south was subject to a Pre-Application enquiry with Babergh and Mid Suffolk District Council, reference DC/23/03471 dealt with by Alex Breadman. As part of the Pre-Application enquiry, the Case Officer visited the site and met with the owner. On site, discussion revolved around the status of the land and whether this would constitute 'curtilage' i.e. whether the use of the land is considered domestic garden land in association with No.1 Chapel Road.

Mr Breadman's report considered the current garden land to be the parcel of land immediately enclosing the dwelling, as such, the land in question would not be considered as the immediate curtilage/garden as a starting point. However, he noted that "it is clear from visiting the site that there is a link between the land and No.1 Chapel Road and it is acknowledged that the land may have been

utilised as additional garden/domestic land for some time, from a planning perspective, this use has not been formalised.” It was therefore agreed that one option to formalise this could be to seek receipt of a Lawful Development Certificate (existing use). The report concluded that there was unlikely to be any objection to the formalisation of the land to domestic garden land, whether this was done through formal planning permission or a Certificate of Lawfulness application.

Since the Pre-Application has been determined, Part 1 of Babergh and Mid Suffolks Joint Local Plan has been adopted in November 2023 by both Local Authorities. Part 1 of the Joint Local Plan covers Development Management Policies. The National Planning Policy Framework (NPPF) has also seen some changes as of December 2023. The NPPF states *‘Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the contents of an application and how it must be submitted. There is a different application form for each type of certificate, but either type must be accompanied by sufficient factual information/evidence for a Local Planning Authority to decide the application, along with the relevant application fee. Application forms can be obtained from the Local Planning Authority and can be completed by the applicant or someone working on their behalf.’*

The information and evidence provided with this application consists of the following:

- Application forms
- Covering letter
- Site plan
- Photographs (see Appendix 1)
- Statutory Declaration (see Appendix 2)

This information and evidence meets the requirements set out above in the NPPF. It is considered that we have provided clear and convincing evidence that the land has been used as domestic garden for a continuous period of at least 10 years without break.

The land was previously used to graze horses which were stabled within the garden of No.1. This use didn't require planning permission. This use ceased when the previous owner acquired the land in 2001. In 2007, the land further to the south of the site (Referenced as 1 Walsham Road, Wattisfield) gained consent under reference 1647107 for *‘Continued use of land for keeping horses and retention of stables’*. The red line boundary for that consent, accurately followed the boundary of the adjoining parcel of land, which is the subject of this application. This planning consent in 2007 shows a clear divide between land being utilised for paddock area and our clients domestic garden land.

As part of the Certificate of Lawfulness application, a sworn declaration from the previous owner Ms Owen, has been provided. The declaration states that they have owned the adjoining land to the south since 27th February 2001, and since purchase, have maintained and used the land as domestic garden land associated with the main property for the use and enjoyment of the family, therefore considering this to form part of the residential curtilage. The use of the land has not been interrupted during this period of 23 years.

The previous owner became increasingly unable to keep up with the required maintenance of both the house and garden area. The applicant has therefore undertaken clearance of overgrown shrubs/hedges and rotten fence posts since purchasing the property earlier this year. This has left areas of lawn in need of repair, which is to be expected. Photographs are enclosed at Appendix 1 as evidence

of the use of the land as domestic garden land. They show clear connection between all areas of the garden land and the property. A point which was made by Mr Breadman in his Pre-Application report. Generally, the images show a private, enclosed area of lawn, sheds and paving which is to be expected for land used as a domestic garden.

This Certificate of Lawfulness seeks confirmation that the land has lawfully been used as domestic garden land for a substantial number of years, more than the minimum requirement.

Please let me know if you need any further information or clarification and I look forward to receiving confirmation of validation in due course.

Yours sincerely,



Dan Hewett MRTPI MRICS
Head of Planning

APPENDIX 1

Photographic Evidence



Photograph 1: View looking north towards No.1.



Photograph 2: View looking east along southern boundary.



Photograph 3: View looking north east from western boundary.



Photograph 4: View looking south across garden from rear elevation of No.1 Chapel Road.



Photograph 5: View east from area south of No.1.



Photograph 6: View looking south east across garden.

APPENDIX 2

Statutory Declaration

I **MICHELLE LEE OWEN** of 1 Chapel Road, Wattisfield, Diss IP22 1NU DO HEREBY SOLEMNLY AND SINCERELY DECLARE as follows: -

1. On 20 October 2003 I purchased 1 Chapel Road, Wattisfield, Diss IP22 1NU registered with Title Absolute at HM Land Registry under Title Number SK246003 shown red on the attached plan and marked "MLO1" ("the Property")
2. On 27 February 2001 I purchased the adjoining land registered with Title Absolute at HM Land Registry under Title Number SK412390 shown edged green on the attached plan marked "MLO1" ("the Adjoining Land")
3. Since my purchase of the Adjoining Land I have maintained and used the Adjoining Land as domestic garden land associated with the Property for the use and enjoyment of my family and I consider the Adjoining Land to be part of the curtilage of the Property
4. Use of The Adjoining Land as domestic garden land has been without interruption dispute or objection by or with any person whatsoever

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835

DECLARED by the above named
MICHELLE LEE OWEN

at *Spire Solicitors LLP*
in the County of *Norfolk*
on the *19th* day of *JANUARY* 202*4*

Before me


.....
A Solicitor/Commissioner for Oaths

Carolyn Bunn
Solicitor
Spire Solicitors LLP
2 Victoria Road, Diss
Norfolk IP22 4EY

HM Land Registry
Official copy of
title plan

Title number **SK412390**
Ordnance Survey map reference **TM0073NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Suffolk : Mid Suffolk**



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