

Our Ref / Fy nghyf: 1665.a

Date / Dyddiad: 27th February 2024

Head of Planning & Public Protection
Neath-Port Talbot County Borough Council
The Quays
Brunel Way
Baglan Energy Park
Neath SA10 2GG

For the Attention of Rhodri Griffiths

Dear Mr Griffiths,

Proposed Certificate of Lawfulness for a Use / Development
Use of Land as an Extended Residential Curtilage
at Land Adjoining 6 Prettyman Drive, Llandarcy, Neath

We continue to be instructed by Mrs. J. A. Tranter in relation to seeking a Certificate of Lawfulness for the above existing use of land immediately adjoining the above property.

We are in receipt of your Refusal Notice to Application P2023/0822 dated 20th December 2023. In refusing that Lawfulness Certificate application you indicate that you are “*not satisfied that the application contains sufficient evidence to demonstrate that the land in question has for a continuous period of 10 years or more been used as garden area and are also of the view that the land does not form part of the curtilage to the application property.*”

We therefore submit a re-application which contains additional evidence in the form of sworn statements from Mrs Tranter’s family and friends, which all verify the use of the parcel of land adjoining No. 6 Prettyman Drive as used as an extended residential garden for that property since well before February 2014.

Furthermore, we have examined your Officer’s Delegated Report which led to that refusal decision. You are of the opinion that aerial photography alleged points, within a selected time frame, to a dividing fence set between the original garden and the subject land. You are of the opinion that the presence of a fence somehow demarcates a division and / or physical barrier to the subject land being used as an extended garden area.

The facts of that fence are explained by Mrs Tranter in her revised sworn statement included in this re-application. A fence was necessary and actually conditional upon her lease obligations with St Modwen. Mrs Tranter kept poultry in the original rear garden area at No. 6, and the purpose of the fence was to prevent those domesticated birds from straying into the subject land.

However, as Mrs Tranter's close friend Mrs Beverly Bamsy confirms in her statement, her recollections are quite clear as to the use put to the subject land. She visited and enjoyed socialising with Mrs Tranter on this extended garden area.

Mr Anthony Fender and Mr Matthew Fender grew up at No. 6 and assisted their mother (Julie Ann Tranter) with the maintenance of the subject land. They used it as a garden playground, and in later years photographed the domestication of the land, as reproduced in their appended photographs to their sworn statements.

The re-application therefore contains the following plans and documents:

- Completed application forms
- Location plan
- Sworn Statement by the Applicant, Mrs Julie Tranter
- Sworn Statements by witnesses Anthony Fender, Matthew Fender and Beverly Bamsy.

The Fee Regulations 2015 make it quite clear under Regulation 11 that a re-application for a Certificate of Lawfulness made within 12 months of the date of refusal of an earlier application, shall not incur a further fee.

We consider it appropriate to remind you of the history of events relating to the site in subject. The following should therefore be read in conjunction with accompanying plans and statements.

Mrs Tranter purchased the property known as 6 Prettyman Drive in August 1992, and has lived at the property continuously ever since as her main place of residence.

In February 2002, she purchased an additional sliver of land off the western side perimeter of the property's curtilage and absorbed that additional piece of land into her domestic garden area.

Two months later, in April 2002, she entered a formal lease agreement with St Modwen Developments Limited to lease the remainder of land, in their ownership, along and parallel to the entire western boundary of her property. That leased land extends in width of an established drainage ditch running parallel to the west and set at the edge of a copse of deciduous woodland to the west of Prettyman Drive.

Mrs Tranter set about domesticating the leased tract of land, by formalising it with a well-maintained grass lawn and adding domestic items such as garden ornaments, and in later

years an old, redundant telephone box. She has regularly mowed the lawn and used it for personal domestic purposes in an identical manner to the use of original garden area off the rear of the dwellinghouse. It has in fact formed an extension to the residential curtilage.

We have noted that Google Earth recorded the form of the land when their Streetview vehicle captured imagery of the property in May 2012. The character and appearance of the land takes on a very different form from the neighbouring woodland, being manicured with well-cut lawn and displaying garden features. To all intents and purposes, any member of the public viewing the site at that time and since, would have taken a view that the land appears as part of the domestic garden area of No. 6 Prettyman Drive.

The additional garden area has been enclosed at its road frontage throughout this time to avoid incursion by passers-by, initially with ranch fencing, and in later years with a timber close-boarded fence.

You are correct in your Officer's Report, in referring to relevant Case Law, that "*In Gabbittas v Secretary of State for the Environment SE and Newham LBC [1985] JPL 630, the Court held that if the Council has no clear evidence of its own, or from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse the application.*"

In this case at No. 6 Prettyman Drive, the Council have **no compelling evidence** to contradict the evidence submitted by the Applicant. Matters which led to the refusal of P2023/0822 have been addressed by Mrs Tranter, namely the presence of a fence, and secondly, through the presentation of **three additional** sworn statements.

We submit based on the above evidence that upon the balance of probabilities, the use of land, as edged in red on the attached location plan, has been used as an extended residential curtilage to the adjacent dwellinghouse, and has remained continuous for a period in excess of 10 years. It should accordingly be declared lawful, and a Certificate of Lawfulness duly issued.

We trust that the above and attached will enable the Local Planning Authority to positively determine the application. However, should you require any additional information please do not hesitate to contact us.

Yours sincerely

R. A. Banks

Director

Enc.

Cc client