Certificate of Lawfulness –
Confirmation of the use of land
as part of Residential Curtilage

Land at Strafford House
Gilroyd Lane
S75 3EG

In the ownership of
Mr B Eldred DL and Dr E Eldred

2nd May 2011

Ref: 2011/ENQ/00142

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1.0 INTRODUCTION AND BACKGROUND

1.1 Strafford House is a detached stone built house lying to the west of Gilroyd Lane, Dodworth.
It is bounded on three sides by land which is both formally cultivated as flower and vegetable garden and by land which has been lightly managed as a less formal garden for the cultivation of fruit trees, ornamental trees, and the siting of an apiary.
A 'fire pit' has been long established for barbecuing, benches and a swing seat have also been part of the garden for the enjoyment of family and friends. A climbing frame was erected in the garden for our children's use but has now been removed.

1.2 This application has been submitted following discussion with Matthew Smith and Laura Bibby on 13/04/2011, and correspondence from Barnsley MBC Department of Planning and Transportation in order to confirm to the Authority that the land in question has been, and still is, the garden to Strafford House, and that the curtilage of the property is as shown on the enclosed sketch map outlined in red.

1.3 The Application comprises the following

* The application form

* Site plan

* Declaration from the present owners and occupiers of Strafford House

*Letter from Dr James B Eldred, son of the owners – Appendix B

* Letter from Mrs E Rebecca Cottey, daughter of the owner - appendix C

* Letter from Mr A Wilkinson, a long standing friend who has known the property since 1976 – appendix D

*Letter from Reverend A Saxby, who has helped organise church events in the garden since the 1980's Appendix E

2.0 GROUNDS UNDER WHICH A CERTIFICATE IS SOUGHT

2.1 Section 191 of the Town and Country Planning Act 1990 (as substituted by the Planning and compensation Act 1991) provides for any person wishing to ascertain whether an existing use of land or buildings is lawful to submit an application for a Certificate of Lawfulness for an existing use. This application is submitted under section 191(1) on the grounds that the use of land at Strafford House, Gilroyd Lane as part of the residential curtilage of the dwelling started more than ten years ago and has continued ever since.

2.2 There is no relevant planning application history to this site.

2.3 This is an application that should be determined on the evidence of the case; whether or not the proposal complies with planning policy is irrelevant to the consideration of the application.

2.4 The "purpose of this land is incidental to the enjoyment of the dwellinghouse as such" includes the keeping of poultry, **bees** or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse. (Town and Country Planning Order 2008 – Class E)

3.0 STATEMENT OF CASE

3.1 Strafford House was purchased by the present owners Mr and Dr Eldred in November 1976 along with the front and rear gardens as outlined in red on the attached plan.

The land adjacent to the house of approximately 1.65 acres, outlined in red on the enclosed outline drawing, was held under a tenancy which was a continuation of an original agreement made on January 15th 1929 by Strafford Collieries Ltd which permitted the use of the land for the enjoyment of the owners of Strafford House. It also confirmed a right of drainage of sewage from Strafford House into a sump in the middle of the land. This drainage continues to this day.

Fencing between the formal garden and the land to the north and west of the house was removed by the owners in the late 1970's in order to incorporate the land and formal garden into one.

The tenancy continued until the land was purchased from the executors of the Estate by the present owners on December 6th 2002.

3.2 In 1976 at the time of the purchase of Strafford House the children of the house were aged 2 and 4 years.
The opportunity to use the land as a garden for their safe enjoyment and the enjoyment of their friends was the prime consideration for the tenancy being continued and for the subsequent purchase of the land in 2002.

3.3 In the late 1970's a portion of the land which was being used to grow fruit and vegetables was fenced off with rabbit wire in order to protect the fruit and vegetables from attack. This area remains in a fenced state.
This rabbit fencing was not intended to, nor has ever demarked the garden. The sole reason for this fence was crop protection in this portion of the garden.

3.4 The remaining unfenced area of the garden has been and continues to be used for the cultivation of apples, pears, plums, cherries, sweet chestnuts and hazel nuts with additional ornamental trees.

3.5 An area to the north of the garden has deliberately been left uncut to encourage butterflies, bumble bees, moths and other insects and to provide wild bird habitat and food.

3.6 An apiary has been located in the garden for honey production and fruit pollination for over ten years. Honey production is a serious hobby for the owners. Mr Eldred is a member of the British Beekeepers Association, and a member of the Barnsley branch.

3.7 An area of the garden is left in its natural state in order to preserve a local example of 'ridge and furrow' cultivation, which dates back to the late 17th C. The owners have avoided any landscaping or cultivation that would damage this important historical feature.

3.8 Because the owners have chosen not to cultivate this area a broad spectrum of wild flowers has been preserved and encouraged to regenerate. Best practice is followed by cutting this wild flower area once a year when the flowers and grasses have seeded.

3.9 A large area of closely mown grass continues to be used for the playing of ball games, picnicking and other leisure activities, both by the family, friends and church groups.

3.10 Annual charity fundraising events are held along with firework displays and bonfire parties.

3.11 A fire pit and barbecue with accompanying wood store has been a feature of the garden and has been used extensively for the last fifteen to twenty years.

4. CONCLUSION

The enclosed declaration by the owners and supporting evidence demonstrate that the land has been a garden for a period of over ten years and therefore is lawful by virtue of the Town and Country Planning Act 1990 as amended. A certificate of Lawfulness of use should therefore be granted.