



Coar Brook House, Clitheroe Road, Waddington, BB7 3HH

**Lawful Development Certificate for Use of Property as a Single Dwellinghouse
Unfettered by Occupancy Restrictions**

Applicant – Mr Alan Coar

July 2022

Prepared By:

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1.0 INTRODUCTION

1.1 Leith Planning Ltd has been instructed by Mr and Mrs Coar to seek a 'Lawful Development Certificate' for the continued use of Coar Brook House, Clitheroe Road, Waddington, BB7 3HH as a single dwellinghouse unfettered by an agricultural occupancy restriction.

Description

1.2 The description of the application seeks as follows:

“Lawful Development Certificate for the continued use of Coar Brook House, Clitheroe Road, Waddington, BB7 3HH as a single dwellinghouse unfettered by an agricultural occupancy restriction.”

Site Description

1.3 The application site is located within the authority of Ribble Valley Borough Council. The site is positioned to the south of the settlement of Waddington. The settlement is served with a primary school, a couple of public houses and local recreational facilities. There are bus stops located outside of the site providing good access to public transport connections.

1.4 The property subject of this Certificate application is two storeys in height with ground floor and rooms at first floor within the roof space. The property is cited to the front of an existing farmstead 'Fields Farm', and has access from the B6478. The property benefits from a small garden area and off street car parking to the site frontage.

1.5 The application site is not listed and there are no listed buildings within close proximity of the site. The site is however noted to be at risk from flooding, as indicated on the Environment Agency online flood Map

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Existing Use

- 1.6 The existing use of Coar Brook House, Clitheroe Road, Waddington is Use Class C3 (Dwellinghouse) in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. The extant use of the site for residential purposes was approved under planning application 3/95/0564/P on the 10th February 2000.
- 1.7 The existing use of the property is unaffected by this Certificate of Lawfulness and will remain as a Use Class C3 dwellinghouse.
- 1.8 The original planning consent for Coar Brook House (LPA Ref: 3/95/0564/P) included a condition (condition 2) limiting the occupancy of the property to a person solely or mainly employed or last employed in the locality in agriculture or forestry. It is the breach of this historic condition through the occupancy of the dwelling by those not solely, mainly or lastly employed in agriculture or forestry that is to be regularised by virtue of this certificate application.
- 1.9 The property has not been in use as a dwelling for those working or lastly working in agriculture or forestry since the applicants moved into the property on 1st June 2012 and has consistently breached condition 2 of consent reference 3/95/0564/P since that date.

2.0 LAWFUL DEVELOPMENT CERTIFICATE FOR CONTINUED USE – GENERALLY

2.1 Section 191 of the Town and Country Planning Act 1990 relates to Certificates of Lawfulness for Existing Use or Development (CLUED) and reads as follows:

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful;
or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted 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.

2.2 The matter is further addressed within the National Planning Practice Guidance (NPPG) which states that:

“There are 2 types of lawful development certificate. A local planning authority can grant a certificate confirming that:

(a) an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990; or

(b) a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful for planning purposes under section 192 of the Town and Country Planning Act 1990.”

2.3 Clearly in this instance we are applying under the provisions of Section 191 of the Town and County Planning Act, or (a) as set out within the NPPG, in relation to an existing breach of planning condition which has become lawful through the passage of time.

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2.4 There is no obligation on a landowner to make an application under s.191 or s.192; the matter is entirely at their discretion. If the landowner has complete confidence in their planning title, then they should supply all the relevant information, if requested, in the form of statutory declarations submitted to the local planning authority showing that the use is lawful by virtue of immunity.

2.5 It is stated within the Planning Practice Guidance that ‘a local planning authority always needs to co-operate with an applicant who is seeking information that the local authority may hold about the planning status of land’. Furthermore:

“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any 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, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”

Lawfulness Certificates: onus of proof.

2.6 It is understood that the onus of proof in a certificate of lawfulness application is on the applicant. The standard of proof in respect of a certificate is on the *balance of probability*. Furthermore, it was held in *F. W. Gabbitas v Secretary of State and Newham London Borough Council [1985] J.P.L 630* that an applicant’s own evidence is not required to be corroborated by independent evidence in order to be accepted.

2.7 Further, if the local planning authority or an Inspector have no evidence of their own or from third parties to contradict or otherwise dispute the applicant’s version of events, rendering them less than probable, then there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of the certificate on the balance of probability. If, however, there are contradictions in the applicant’s evidence on material issues, then the local planning authority would be entitled to refuse the certificate. Further, the local planning authority is entitled to treat hearsay evidence with caution if it is entirely uncorroborated.

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2.8 In this case, it is considered that the evidential documentation submitted in support of the existing use of the property known as Coar Brook House, Clitheroe Road, Waddington, as detailed in Section 4 below, is considered to be conclusive and show beyond doubt that the property has been in use as an unfettered single dwelling for more than 10 years.

Need for Precision in Certificates

2.9 The words of the certificate are more appropriately considered as defining what may lawfully take place on site, much as the description of the grant in a planning permission does.

2.10 The wording of the Certificate as outlined in Section 1 of this statement is considered to be accurate and reflective of the use of the site. The description is clear, concise, and unambiguous and as such is felt to be acceptable. The property known as Coar Brook House has clearly been used as single dwelling occupied by those not employed or lastly employed in agriculture or forestry since at least June 2012, meaning this activity has taken place for more than 10 years making the use lawful despite the breach of condition 2 of the approved planning consent.

Time Limits

2.11 Section 171B of the Town and Country Planning Act 1990 addresses the issue of time limits within which enforcement action can be pursued against breach of planning conditions. The legislation 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"

2.12 The property was first occupied by Mr and Mrs Coar in June 2012 and has been resided in by the same owner ever since – a period of more than 10 years where they have lived at the property whilst undertaking employment not within agriculture or forestry. This is in excess of the 10-year minimum period as set out at Section 171B in the Town and Country Planning Act.

3.0 ESTABLISHING EXISTING USE

3.1 The planning history for the site, referable to this application is detailed below:

Application Ref: 3/95/0564/P

Description of Development: Erection of detached Bungalow

Decision: Approved subject to conditions

Date of Decision: 10th February 2000

3.2 A copy of the approval associated with consent reference 3/95/0564/P has been included at Appendix 1, with specific attention drawn to the provisions of condition 2 which read as follows:

“2. The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in the locality in agriculture as defined in Section 336(1) of the town and Country Planning Act 1990 or in forestry, or a dependent of such a person residing with him or her or a widow or widower of such a person.”

3.3 It is the lawfulness of the breach of the above condition which this Certificate application seeks to regularise. The evidence to support his application is set out within section 4.

4.0 PRINCIPLE OF DEVELOPMENT

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4.1 In the case of the application site, the occupancy of the property has been carried out contrary to the provisions of the original consent for the development (application reference 3/95/0564/P) which included the following planning condition:

“Condition 2: The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in the locality in agriculture as defined in Section 336(1) of the town and Country Planning Act 1990 or in forestry, or a dependent of such a person residing with him or her or a widow or widower of such a person.”

4.2 As evidenced within the documentation submitted in support of this application from the property owner, Coar Brook House has been used as an unfettered single open market dwelling since taking over the property in June 2012, with both of those residing within the property employed either by the local authority or within local hospitality venues. Neither Mr nor Mrs Coar have been mostly, solely or lastly employed in agriculture or forestry since moving into the property on the 1st June 2012. The breach of the relevant planning condition has therefore been taking place for more than 10 years and has taken place continuously since that date.

4.3 The evidence submitted in support of this Certificate application is detailed as follows:

- Letter dated 20th June 2022 from [REDACTED], Revenues Assistant at Ribble Valley Borough Council confirming that Mr and Mrs Coar have resided at Coar Brook House, Clitheroe Road, Waddington since 1st June 2012 to the present date (Appendix 1);
- Letter dated 20th June 2022 from [REDACTED], HR Officer at Ribble Valley Borough Council confirming that Mr Alan Coar has worked for Ribble Valley Borough Council within the community services department from the 23rd September 2000 until the present day, and remains under the employment of the local authority (Appendix 2); and

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- Letter dated 22nd June 2022 from [REDACTED] at The Inn at Whitewell confirming that Mrs Coar was employed at the establishment as a Restaurant Manager from August 2011 until March 2019, and had in fact been in employment at the venue as a Supervisor for many years in advance of August 2011 (Appendix 3). Following her departure from The Inn at Whitewell in March 2019, Mrs Charlotte Coar has been working at 'The Grand' in Clitheroe.

4.4 The evidence submitted in support of this Certificate clearly demonstrates that since moving into Coar Brook House in June 2012 that neither Mr nor Mrs Coar have been solely, mostly or lastly employed in agriculture or forestry. There have been no dependents living within the property who were solely, mostly or lastly employed in agriculture or forestry, and the Applicants have therefore lived at the property in breach of condition 2 of consent reference 3/95/0564/P for the last 10 years.

4.5 The lawfulness of the unfettered use of Coar Brook House as a single open market dwelling, unfettered by agricultural occupancy restrictions for more than 10 years, has therefore in our view been proven, and we therefore kindly request that the Council issue the Certificate of Lawfulness without delay.

5.0 CONCLUSIONS

5.1 The application is for the following:

“Lawful Development Certificate for the continued use of Coar Brook House, Clitheroe Road, Waddington, BB7 3HH as a single dwellinghouse unfettered by an agricultural occupancy restriction.”

5.2 Having regard to these submissions we trust that the Council accept that the property known as Coar Brook House has been in use as a single open market dwelling, unfettered by agricultural occupancy restrictions for over 10 years, contrary to the provisions of condition 2 of planning consent reference 3/95/0564/P. As such, we trust the Council will, on the balance of probability, grant a Certificate in the above terms.

5.3 Whilst we hope that the Certificate application is sufficiently supported with documentary evidence, should the Council require any further details on the proposed use in advance of determining the Certificate, we would be grateful to be notified of the same at the Council's earliest convenience such that the documentation can be prepared and submitted in advance of the determination date.



Coar Brook House, Clitheroe Road, Waddington

Appendix 1 - Council Tax Correspondence

Coar Brook House, Clitheroe Road, Waddington



RIBBLE VALLEY BOROUGH COUNCIL

please ask for: [REDACTED]
direct line: [REDACTED]
e-mail: [REDACTED]
my ref: [REDACTED]
your ref: [REDACTED]
date: 20 June 2022

Council Offices
Church Walk
CLITHEROE
Lancashire BB7 2RA

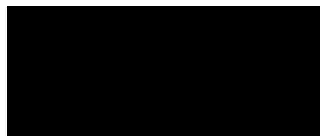
Switchboard: 01200 425111
Fax: 01200 414432
www.ribblevalley.gov.uk

Dear Mr & Mrs Coar

I write to confirm that Council Tax records show that Mr Alan James Coar and Mrs Charlotte Ann Coar are the joint liable party for Council Tax at Coar Brook House, Clitheroe Road, Waddington BB7 3HH from 1 June 2012 to date.

Should you require any further information, please do not hesitate to contact me.

Yours sincerely



REVENUES ASSISTANT

Mr & Mrs Coar
Coar Brook House
Clitheroe Road
Waddington
CLITHEROE
BB7 3HH

Chief Executive: Marshal Scott CPFA
Directors: John Heap B.Eng. C. Eng. MICE, Nicola Hopkins MTCP MRTPI, Jane Pearson CPFA

Appendix 2 – Mr Alan Coar Employment Documentation



RIBBLE VALLEY BOROUGH COUNCIL

please ask for: [REDACTED]
direct line: [REDACTED]
e-mail: [REDACTED]
my ref: [REDACTED]
your ref: [REDACTED]
date: 20 June 2022

Council Offices
Church Walk
CLITHEROE
Lancashire BB7 2RA

Switchboard: 01200 425111
Fax: 01200 414488
www.ribblevalley.gov.uk

To whom it may concern

ALAN COAR – EMPLOYEE NO 0796

Please accept this letter as confirmation that Alan Coar has worked for Ribble Valley Borough Council continuously since 23 September 2002. He is still employed with Ribble Valley Borough Council as at today's date.

Yours faithfully



HR OFFICER

Coar Brook House, Clitheroe Road, Waddington



Appendix 3 - Mrs Charlotte Coar Employment Documentation

THE
INN AT WHITEWELL
Forest of Bowland
NEAR CLITHEROE, LANCASHIRE BB7 3AT

22nd June 2022

RE: Mrs Charlotte Coar, Coar Brook House, Waddington

To whom it may concern:

We write this letter to verify that Mrs Charlotte Coar was employed by The Inn at Whitewell as a full time employee as our Restaurant Manager from August 2011 to March 2019. Before 2011 Charlotte was a supervisor at the Inn for many years.

Charlotte was a very valuable member of our team, a hard working dedicated person who was loyal to all other staff members and customers.

I hope this letter is sufficient for your records. should you require any additional information please do not hesitate to contact me directly on [REDACTED] or email me at [REDACTED] at any time.

Yours sincerely,

A large black rectangular redaction box covering the signature of the sender.

The Inn at Whitewell