

DELEGATED FILE NOTE

CASE OFFICER: ...Alex Howard.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
26/00222/LDCE	Use of the property as a dwellinghouse (Class C3) in breach of condition 3 attached to planning permission ref 1/457/82(277) dated 1 July 1982	Libre View Bell Lane Nuthampstead Royston Hertfordshire SG8 8ND

Submitted Plan Nos

Location Plan

1.0 Policies

2.0 Site History

2.1 **21/01157/OP** - Erection of one detached dwelling (all matters reserved).

Appeal Allowed

Refused –

- 2.2 **82/00457/1** - Approval of siting, design, external appearance and landscaping of agricultural workers dwelling.

Conditional Permission

3.0 **Representations**

- 3.1 N/A.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The site is a detached residential dwelling located on the south side of Bell Lane, Nuthampstead. This dwelling was approved in July 1982 under ref: 82/00457/1, subject to a condition that its occupation shall be limited to persons wholly or employed or last employed in agriculture and/or forestry.

4.2 **Proposal**

- 4.2.1 A certificate of lawfulness (existing) is sought to formally confirm that the occupation of Libre View has not been in accordance with restrictive occupancy condition for a period in excess of 10 years.

- 4.2.2 Condition 3 of the original application for this dwelling ref: 82/00457/1 states that:

“3. The occupation of the dwelling shall be limited solely to persons wholly employed or if no longer in full time employment last employed locally in agriculture as defined in Section 290(1) of the [TCPA] 1971 or similarly employed or last employed in forestry, and the dependents of such persons residing with them, or the widow or widower of such a person”.

- 4.2.3 Evidence and supporting information has been submitted to argue that, on the balance of probabilities, the property has not been occupied as per the requirements of condition 3 for a period of at least 10 years and is therefore immune from enforcement action through the passage of time.

4.3 **Key Issues**

- 4.3.1 In line with the above, Section 171b of the Town and Country Planning Act 1990 (Amended) states that no enforcement action can be taken on a breach of planning control if a period of 10 years, beginning from the date of the breach, has surpassed.

- 4.3.2 The supporting covering letter outlines the chronology of events pursuant to this property, which is reinforced by witness statements, to evidence that the property, Libre View, has not been occupied by people employed solely, mainly or last in agriculture or forestry since September 2012 up until February 2025, where up until the present there has been nobody occupying the property at all. Mindful of the Ocado Retail Ltd v Islington LBC (2021) case law, which is referenced to in the supporting information, the period to which this Certificate of Lawfulness application is relevant is the 12 “ years

between September 2012 and February 2025, such that the 12 months between its vacancy and this application have no bearing on the 10 year immunity period.

4.3.3 The supporting covering letter sets out the chronology of events as follows:

“1 July 1982: Planning permission granted for permission ref 1/457/82(277) for erection of an agricultural workers’ dwelling at the Property which included the relevant Condition 3 which is the subject of the Application.

- *1994: Amanda Harding, who was employed by Ian Welch to work part-time on Bury Farm, moved into the Property.*
- *6 February 2000: Amanda Harding wrote to Mr Dimsdale asking if the Property was available to purchase.*
- *September 2012: Amanda Harding ceased all work in agriculture.*
- *October 2012: Amanda Harding began work as a nanny/housekeeper in the locality of the Property.*
- *23 December 2014: Robert Dimsdale entered into an Assured Shorthold Tenancy with Amanda Harding direct.*
- *10 May 2019: Mr Dimsdale died.*
- *September 2024: Amanda Harding began an ongoing period of unemployment.*
- *February 2025: Amanda Harding moved out of the Property”.*

4.3.4 This chronology of events is supported by witness statement by Francoise Dimsdale and Amanda Harding, which are strong evidence to reinforce this position. It would therefore appear to be correct to state that between September 2012, when the tenant stopped all work in agriculture but remained living in the property, and February 2025, when the tenant stopped occupying the property, that there was a period of at least 10 continuous years where the property was occupied by persons not employed solely, mainly or last in agriculture or forestry, contrary to condition 3 of the original permission. No enforcement action has been taken between this period.

4.3.5 Therefore, taking the evidence into account and mindful of the Ocado case law, it can be reasonably considered that the property known as Libre View has been occupied by persons not employed solely, mainly or last in agriculture or forestry since September 2012 until February 2025, on the balance of probabilities. This property has therefore been occupied in breach of its restrictive occupancy condition for a continuous and uninterrupted period of at least 10 years. Therefore, a certificate of lawfulness can be issued for the house and associated curtilage, in accordance with Section 171B of the Town and Country Planning Act 1990 (Amended).

5.0 **Recommendation**

5.1 That a certificate of lawfulness be **ISSUED** for the following reason:

Proactive Statement:

1. The evidence submitted with this application supports the view that the dwelling, known as Libre View, has been occupied by persons not employed solely, mainly or last in agriculture or forestry since September 2012 until February 2025. As such, it is considered that the evidence submitted, on the balance of probabilities, shows that the dwelling has been occupied in breach of its restrictive condition for a continuous and uninterrupted period of at least 10 years. Therefore, in accordance with Section 171B

of the Town and Country Planning Act 1990, no enforcement action can be taken upon a breach of planning control if a period of 10 years has surpassed from the date of the original breach. As such, a certificate of lawfulness can be issued.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 27 February 2026	