

Planning Services
Tewkesbury Borough Council
Gloucester Road
Tewkesbury
Gloucestershire
GL20 5TT

13/10/2022

RE: Planning Portal Reference PP-11425238 Certificate of Lawfulness for an Existing Use or Development (CLEUD) for Existing outbuilding on garden land at Laurel Cottage, Bamfurlong Lane, Cheltenham, GL51 6SW “the application site”

Dear Sir/Madam,

The following application is submitted under Section 191 and Section 193 of the Town and Country Planning Act 1990 (as amended) “the Act” and seeks to establish the lawfulness for an existing outbuilding at the application site. The evidence provided in support of the application shows that the building for which the certificate is sought has been in existence far in excess of four years.

In planning appeals concerning legal issues where the onus of proof is on the appellant, the Courts have established that the relevant test of the evidence on such matters is the “balance of probability”, meaning that the burden is on the applicant to establish lawfulness of the existing use or development. Where a probability of lawfulness of greater than 50% is established, a lawful development certificated should be granted. Moreover, the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the planning authority has no evidence to contradict or otherwise make the applicant's version of events less than probable, this is not in itself a valid reason to refuse the application.

1.0 Application site and building description

The application site is a residential property measures approximately 0.14Ha in overall area. The Laurels is a two-storey dwelling and associated residential garden. The property fronts onto and is accessed from Bamfurlong Lane. The rear garden area is also bounded by Bamfurlong Lane. Neighbouring residential properties adjoin the application site on both side boundaries.



Figure 1 – Laurel Cottage, Bamfurlong Lane, GL51 6SW - principal elevation

As per submitted plans and drawings the L-shaped outbuilding is sited on garden land to the rear of the dwellinghouse (See Figure 2 – images of building exterior). The building consists of a well-constructed wood-frame and wooden clad with a felt roof over a concrete base measuring approximately 118.00sqm in overall footprint. The building has a ridge height of 3.00m. The building is used for general storage purposes (See Figure 2 – images of building interior).



Figure 1 - Existing outbuilding – Laurel Cottage, Bamfurlong Lane, Cheltenham, GL51 6SW



Figure 2 – Interior of existing outbuilding, Laurel Cottage, Bamfurlong Lane, GL51 6SW

3.0 Evidence of lawfulness

Images from Google Earth provides evidence that the building has been in existence since April 2005, at least (See Appendix 1). The images clearly show that the building has been in its current position since 2005, at least. During this time several applications for planning permission have been determined by the local planning authority at the application site (See Appendix 2). As with now, the building has always been used as for uses incidental to the main dwellinghouse. The building and the dwellinghouse constitute the same planning unit and no material change of use of the land has occurred.

As the building has clearly been in existence for a period of four years, it is immune from enforcement proceedings as per Section 171B (1) and (2) of the Act. As such, there is no reason why a lawful development certificated for the existing building should not be granted.

4.0 Summary and conclusion

The purpose of the application is to apply for a certificated of lawfulness for an existing building within a residential planning unit. A description of the site and the building has been provided. Conclusive evidence shows that the building has been in existence far in excess of the required for a building to be considered lawful.

In accordance with 191(4) of the Act, information has been provided that should satisfy the local planning authority that the building is lawful and, as such, a Certificate of Lawfulness should be granted.

Yours faithfully,



Paul O`Sullivan *Licentiate Member of the RTPI*

Planning Consultant

PSK Cheltenham Ltd t/a PSK Architect

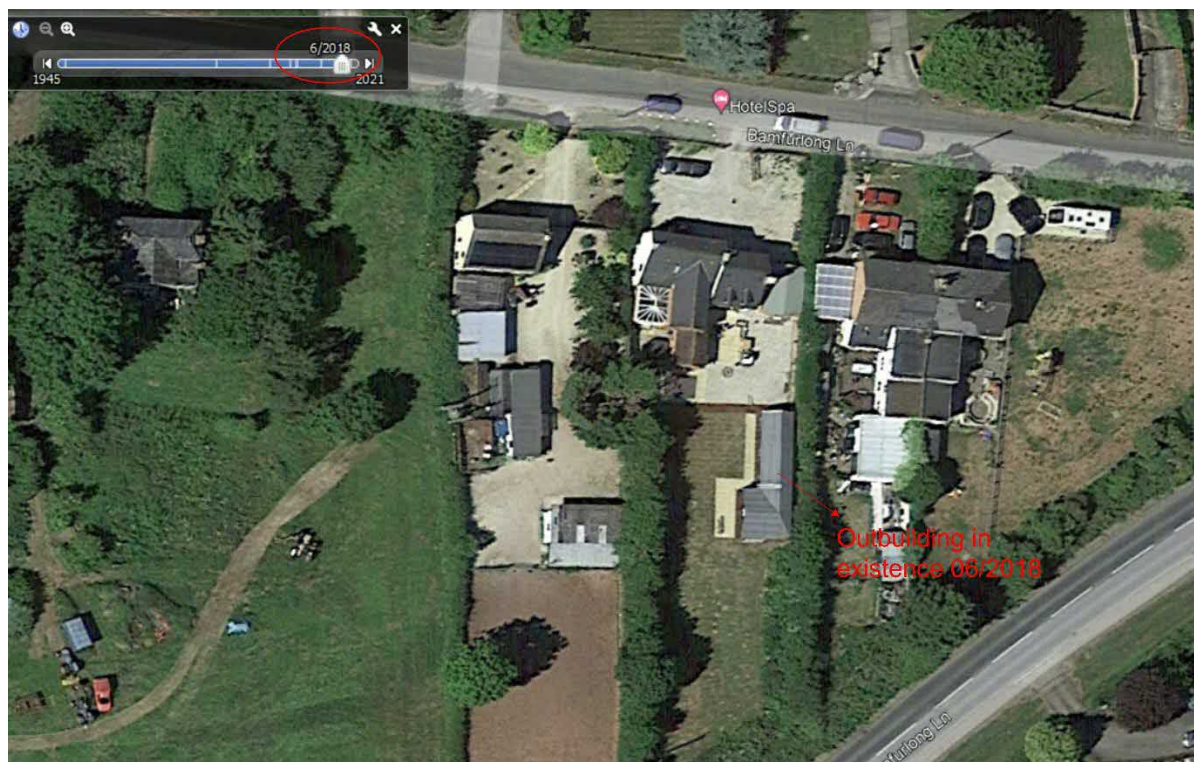
Tel: 01452 714596

Appendix 1 – Google Earth Images of outbuilding at Laurel Cottage, Bamfurlong Lane, Cheltenham, GL61 6SW

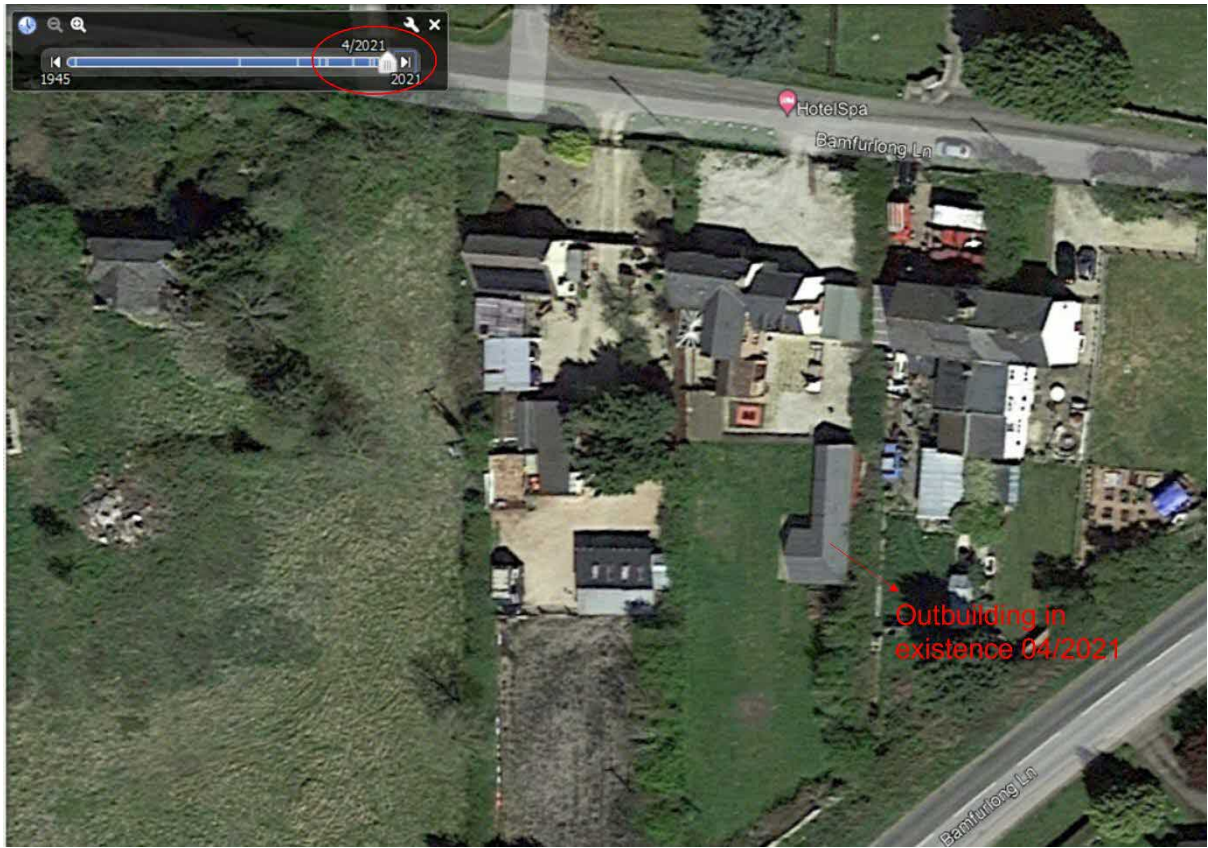
April 2005



June 2018



April 2021



Appendix 2 – Planning History - Laurel Cottage, Bamfurlong Lane, Cheltenham, GL61 6SW

Property History

[Help with this page](#)

100121260163 | Laurel Cottage Bamfurlong Lane Staverton Cheltenham Gloucestershire GL51 6SW

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[Address](#) **Property History (4)** [Constraints \(1\)](#) [Map](#)

Planning Applications (4)

- [Alterations and extensions](#)
Ref. No: 00/00516/FUL | Status: Application Refused
- [2 storey rear extension to provide a kitchen and bedroom, conservatory extension and alterations](#)
Ref. No: 00/01464/FUL | Status: Application Permitted
- [Extension and alterations to cottage.](#)
Ref. No: 06/00327/FUL | Status: Application Permitted
- [Retention of extensions as built.](#)
Ref. No: 08/00752/FUL | Status: Application Permitted

Planning Appeals (0)

Planning Enforcements (0)