

IN THE MATTER OF:

**AN APPLICATION FOR
LAWFUL DEVELOPMENT CERTIFICATE FOR AN
EXISTING USE OR OPERATION**

BY:

MS ALEXANDRA HARDING

Applicant

-in relation to-

**BUILDING/DWELLING LOCATED AT
WILLOWBROOK STABLES
STATION ROAD
EARLS COLNE
COLCHESTER
CO6 2ER**

Property

**STATUTORY DECLARATION OF
MS ALEXANDRA HARDING**

I, MS ALEXANDRA HARDING, of Willowbrook Stables, Station Road, Earls Colne, Colchester CO6 2ER do solemnly and sincerely declare as follows:

1. I make this Declaration in support of an application for a Certificate of Lawfulness of Existing Use or Development in respect of the residential use of a building (formerly part mobile home) on Willowbrook Stables, Station Road, Earls Colne, Colchester CO6 2ER ("the Application Site").
2. I understand that to knowingly or recklessly make a statement that is false or misleading (for the purposes of procuring the issue of a Certificate) is an offence.
3. The facts and matters set out in this declaration are based on information within my personal knowledge or belief. If information is outside of my own direct knowledge or belief, I refer to the relevant source of information. I believe all information set out in this declaration to be true to the best of my knowledge and belief.

4. The documents to which I refer in this statement are now produced and shown in an exhibit bundle marked "AH1". References to page numbers in this statement are references to the page numbers (located in the bottom middle of each page) of AH1.

Ownership of the Application Site and surrounding land

5. The Application Site is shown shaded in red on the plan at page 1.

6. The Application Site forms part of a larger parcel of land which comprises the land known as Willowbrook Stables, Station Road, Earls Colne, Colchester CO6 2ER which is registered at Land Registry under the title number EX747170 ("Willowbrook Stables"). I attach a copy of the Register of Title and registered Title Plan for Willowbrook Stables at pages 2 – 4.

7. I am the registered freehold proprietor of Willowbrook Stables and have been since 8 April 2005.

Previous applications

8. On the 23 June 2022 I made an application for a Lawful Development Certificate for the existing use of Willowbrook Stables as a class C3 Dwellinghouse ("the First CLEUD Application"). The documents used for this application are at pages 5 – 20.

9. This First CLEUD Application was made on the basis that the site was used as a residential dwelling and had been since March 2017 – a time period in excess of 4 years.

10. Oswicks Architectural Services made a statement in support of this application (pages 12 - 19). Their statement lists the documentation provided to support the First CLEUD Application. This documentation was categorised as "Primary Evidence" and "Secondary Evidence"; I understand that the Council has already seen this evidence and as such, I do not exhibit it with this application. However, both the Primary and Secondary Evidence is available in PDF form and can be provided upon request should the Council wish to have sight of the same.

11. The First CLEUD application was refused on the 1 September 2022 and the Decision Notice and Delegated Report are at pages 21 – 30.

12. The Delegated Officer stated in their Report that:-

"Officers therefore consider that there is sufficient evidence to prove beyond reasonable doubt that the use of the structure as a dwelling for the past 4 years is lawful. The main body of documentation covers a period over the last 4 years and a site visit confirmed that the set up and the visual appearance of the structure and garden area show day to day occupancy has taken place for some time."

13. Having sought legal advice, I also understand that by virtue of section 191(4) of the Town and Country Planning Act 1990 ("the Act") the Council have (and had) the authority to grant a Certificate of Lawfulness for a modified or substituted description if they are satisfied of the lawfulness of the use at the time of the application. I am, therefore, disappointed that instead of granting a Certificate of Lawfulness of Existing Use for the residential use of the building (i.e. issuing

a split decision, and refusing re the use of ancillary residential garden land) in the First CLEUD Application, that the Council refused that application outright.

14. Following the above, I was encouraged by the Council to instead make an Application for Planning Permission. I was somewhat reluctant to do this but, having taken further advice, understood that the Council would take into account its findings in the First CLEUD Application when deciding whether (or not) to grant planning permission.

15. As such, on the 12 October 2022, I made an Application for Planning Permission for a *“Change of Use (Retrospective) for Mixed Use of Residential Dwellinghouse (Use Class C) with Ancillary Garden/Amenity Land and Paddocks and Stables”* (“the Planning Application”). The documents used for this application are at pages 31 – 53. As part of the Planning Application it was made clear that I believed that the building on the Application Site was lawful which, I understand was material to assessing the merits of the Planning Application; I am advised that this is called a “fall back position”. As such, the residential use of the building was not in question – just the extent of the garden/amenity land.

16. On the 6 April 2023 the Planning Application was refused, and the Decision Notice and Delegated Report are at pages 54 – 71.

17. I am unsure why the Planning Application was refused as the Council previously noted, as above at paragraph 12, that the building/dwelling was lawful. Indeed, it appears that the Council took no notice of what was said in the planning statement; pertinently as to the “fall back”.

18. I am now applying for a Certificate of Lawfulness of Existing Use or Development in respect of the residential use of the Application Site [the building/dwelling only] on Willowbrook Stables as opposed to Willowbrook Stables as a whole site.

Use of the Application Site

19. I confirm that nothing has changed since the First CLEUD Application. I still occupy the Application Site as my home (i.e. as a residential dwelling) – indeed I have nowhere else to go/live - and have lived there since March 2017.

20. At pages 72 – 135 are a number of letters, bills, payslips, invoices and other paper documents in chronological order dated from March 2022 to April 2023 and addressed to the Application Site by way of evidence that since the First CLEUD Application in June 2022 (for which the Council have already seen the evidence), I have continued to occupy the Application Site as my home/sole place of residence.

21. As to the garden, I accept that this has not been used for ten (10) or more years. That said, on the basis that the residential use of the building is lawful (as I understand it to be) I struggle to understand what merit there would be to the Council in seeking to deprive me of my current use of this modest area of land that I own.

Conclusion

22. I believe that the use of the Application Site as a private dwellinghouse has existed for a period in excess of 4 years.

23. I therefore believe that a certificate should be granted in the form sought for the use of the Application Site as a private dwellinghouse.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declaration Act 1835.

SWORN BY MS ALEXANDRA HARDING

)



Signature of Declarant

)

Date

) 02/05/23.

DECLARED AT:

BEFORE ME, A PERSON ENTITLED TO ADMINISTER OATHS.

Signature:



Name:

LAURA FINNIGAN

Address:

BIRKETT LONG LLP

Qualification:

SOLICITOR

1 AMPHORA PLACE
SHEEPEN ROAD
COLCHESTER, ESSEX
CO3 3WG