

BROMSGROVE DISTRICT COUNCIL

Mr Curt Myatt
C/O Mr Oliver Rider
Zesta Planning Ltd
Basepoint Business Centre
Oakfield Close
Tewkesbury Business Park
Tewkesbury
GL20 8SD
United Kingdom

Approval of Certificate of Lawfulness for an Existing Use or Development

APPLICATION REFERENCE:	20/00966/CPE
SECOND SCHEDULE:	Land To The Rear Of, Redhill Place, Hunnington, Worcestershire B62 0JR
FIRST SCHEDULE:	Certificate of lawful use for the use of land as a builders storage yard for a continuous period in excess of 10 years and operational development comprising of the erection of boundary walling and gates and blockwork storage bay for over 4 years
DECISION DATE:	25th September 2020

Bromsgrove District Council **HEREBY CERTIFIES** that on **17th August 2020** the operations described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 as amended, for the following reason:

Reason

Applicant's Evidence	Council's Evidence
<ol style="list-style-type: none">1. Location Plan2. Aerial drone imagery July 20203. Site photos aerial imagery 2010-204. Supporting statement5. Statutory Declaration Curt Myatt6. Statutory Declaration Harry and Susan Myatt7. Witness Statement ED and P Walker8. Witness Statement Samantha Ferguson	<ol style="list-style-type: none">1. Google Earth imagery 2011 2018 2019

<p>9. Witness Statement Allison Tolley 10. Witness Statement Steven Henry 11. 15/0528 Officers delegated report</p>	
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The application seeks to establish as lawful the use of the land as a builder’s storage yard and operational development comprising the erection of boundary walls, gates and blockwork storage bay.

For the avoidance of doubt it is only the red line shown on the attached plan that is the subject of this application. Where a Lawful Development Certificate is sought the onus of proof is on the applicant and the standard is the balance of probability. In respect of the use of the land the use must have existed for a continuous period of 10 years or more and in respect of operational development the period of time is 4 years or more.

Analysis

The applicant purchased the land in 2009 which at the time comprised a clear site with a concrete and tarmac base. From 2010 the applicant used the land as a builder’s storage yard. The boundary walls gates and blockwork storage bay were erected in 2012.

Applicant’s Evidence

Statutory Declarations

Curt Myatt

This confirms that Curt Myatt purchased the land on 14 December 2009 and that he has owned it since that time. The land comprises of around 0.34 acres. The land was once occupied by a block of garages that served the residential properties at Redhill Place. Theses garages were demolished and cleared from the site between 2007/09. At the time of purchase the land comprised an open area of hardstanding with a mix of concrete pads and tarmac surfacing. Upon purchasing the land in 2009 Mr Myatt started using the land to store a small amount of building materials in association with his construction business and his parents construction business. By 2010 the use of the land for the storage of building materials, construction spoil, equipment, plant and tools had intensified and the whole of the site was being used as a builders. He confirms that the use as such has been continuous since 2010 and that there have been no intervening uses.

Harry and Susan Myatt

This confirms that a Harry and Susan Myatt assisted their son Curt Myatt in purchasing the land subject of this application. It confirms that the land was purchased for the storage of materials in association with their construction business and that of their sons. It confirms that the land was used for the storage of building materials in 2009 and that the use intensified from 1 June 2010 until the date of this application. It confirms that work commenced early in 2012 on the brick built boundary wall and metal entrance gates along the southern and south-eastern boundary of the site and that a blockwork storage bay structure was constructed at this time. These works were completed by

September 2012. Aplan exhibited HM1 with this declaration indicates the location and extent of the brick boundary wall, metal gates and the storage bay.

Witness Statements

ED and P Walker

This confirms that Curt Myatt has been using the land at Redhill Place subject of this application for the last 10 years as a builder's yard.

Samantha Ferguson

This confirms that Samantha Ferguson has lived at her address since 2011 which is opposite the application site and confirms that there has been a builder's yard here well before she moved to her address.

Allison Tolley

This confirms that the area of land at the top of Redhill Place Hunnington is used and has been used as a builder's yard for around the last 10 years.

Steven Henry

This confirms that between 2010 and 2017 (when the company ceased trading) Birmingham Skip Hire provided an ongoing skip delivery and collection service to the builders yard located at Redhill Place Hunnington.

Google Imagery

Google aerial view imagery dated 2011 2012 2016 2017 2018 2019 verify the existence of a builders yard. Google aerial imagery from 2012 2016 2017 2018 2019 confirms the existence of the bay and boundary wall and gates. Google street images, dated on site photos and drone imagery further support this application.

Planning application 15/0528

The officer report refers to the use of the site as a builder's yard.

Council's Evidence

Google Imagery

Google imagery dated 2011 2018 and 2019 confirms the existence of a builders yard, storage bay, boundary wall and gates.

Site visit

A site visit on 7 September 2020 confirmed the existence of the caravan in the location referred to in this application

Conclusion

Both the supporting evidence submitted by the applicant and that held by the Council proves on the balance of probability that a builders yard (B8 use) has operated from the site referred to in this application and shown on the attached plan and as such is now immune from enforcement action under the 10 year rule and that a boundary wall, gate

and storage bay have been in situ and are now immune from enforcement action under the 4 year rule.

Recommendation

I recommend that a Certificate be granted.



Ruth Barnford
Head of Planning and Regeneration

Notes

- 1) This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990 (as amended).
- 2) It certifies that the use/operations/matter specified in the First Schedule taking place on the land described in the Second Schedule was/were lawful, on the specified date and, thus, was not/were not liable to enforcement action under section 172 of the 1990 Act on that date.
- 3) This certificate applies only to the extent of the use/operations/matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operations/matter which is/are materially different from that/those described or which relate/s to other land may render the owner or occupier liable to enforcement action.
- 4) The effect of the certificate is also qualified by the proviso in section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

Site Plan – 20/00966/CPE

