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10 August 2023

Planning Services  
Solihull MBC Council House  
Manor Square  
Solihull  
B91 3QB

FAO: Lawrence Osborne

Dear Lawrence

**Section 192 Town and Country Planning Act 1990 (as amended)**  
**Application for a Certificate of Lawfulness of Proposed Use or Development for Walford Hall Farm, Solihull Road, Hampton in Arden**

I am instructed by my client, Extra MSA Group, to submit an application for a Certificate of Lawfulness of Proposed Use or Development under Section 192 of the Town and Country Planning Act (1990), for the Change of use of the farmhouse and associated outbuildings f residential/agricultural to commercial/office use. Extensive repairs to all buildings, full services installation, replacement/removal of inappropriate fittings and finishes, and extensions.

Planning permission was previously granted for this development under Local Planning Authority (LPA) reference number PL/2018/02352/PPFL and an associated Listed Building Consent, LPA reference PL/2018/02353/LBC. Both consents are dated 13<sup>th</sup> November 2018 and were subject to a five- year implementation period (see Condition 2 of both consents).

The purpose of this submission is to formally secure the approval of the Council that the planning permission was lawfully implemented and is therefore 'saved' in perpetuity. Implementation of construction took the form of the digging of a foundation trench, and filling with concrete, for the stable block extension, following the approval of pre-commencement conditions. The accompanying photographs submitted show that the work described above has been undertaken.

**Background**

The application site comprises of a Grade II\* Listed Building. As such, both full planning permission and listed building consent was sought and approved in respect of this proposal. This Certificate of Lawfulness application relates only to the full consent. There is no equivalent procedure for Listed Building Consents and therefore it has been agreed with the LPA that a formal letter confirming lawful commencement of the listed building consent would be requested.



The full planning permission was granted subject to 17 conditions. Condition 2 established the timescales for implementation (five years) and Conditions 3, 7, 8, 9, 14, 15 and 17 related to pre-commencement matters. This is set out in the table below:

Condition Number	Condition	Approval Reference
3	No development shall be commenced until a schedule and samples of all bricks, tiles, oak, lime render and other materials to be used in the external elevations have been submitted to and approved in writing by the Local Planning Authority, including by sample panels on site where necessary. Thereafter the development shall be carried out in full accordance with the approved details.	PL/2023/00596/DIS: Approved 4th April 2023
7	No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for: (a) The parking of vehicles of site operatives and visitors; (b) Loading and unloading of plant and materials; (c) Storage of plant and materials used in constructing the development including secure storage provision for historic materials salvaged for re-use or brought to the site to guard against architectural theft; (d) Means to prevent mud and debris from the site and its access from reaching the highway.	PL/2023/00599/DIS: Approved 28th March 2023
8	The development shall not be commenced until such a time as a scheme to manage the surface water runoff from the development has been submitted to and approved in writing by, the	PL/2023/00267/DIS: Approved 21st June 2023

	<p>Local Planning Authority, with no occupation until the scheme is operational. Prior to the submission of those details, an assessment shall be carried out into the potential for disposing of surface water by means of sustainable drainage systems (SuDS), and the results of the assessment provided to the Local Planning Authority. The submitted details shall:</p> <ul style="list-style-type: none"> <li>i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;</li> <li>ii) specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation;</li> </ul> <p>and,</p> <ul style="list-style-type: none"> <li>iii) provide a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by a public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime</li> </ul> <p>The scheme shall be implemented, maintained and managed in accordance with the approved details.</p>	
9	<p>Prior to the commencement of work on site, all existing trees and hedges except those agreed for removal, shall be protected by barriers. Details of the type of fencing and its siting shall be submitted to and approved in writing by the Local Planning Authority, thereafter the tree barriers shall be implemented and maintained on site as approved. The protected</p>	<p>PL/2023/00270/DIS: Approved 28th March 2023</p>



	areas shall be kept free of all materials, equipment and building activity during the site development and ground levels within the protected areas shall not be raised or lowered.	
14	No development shall take place until a detailed schedule of bat mitigation measures (to include timing of works, replacement roost details, monitoring and further survey if deemed necessary) has been submitted to and approved in writing by the local planning authority - unless a licence for the works has been obtained from Natural England in which case confirmation is to be provided to the local planning authority in writing before commencement of any works on site. The mitigation measures shall be implemented in accordance with the approved details and timing of works unless otherwise agreed in writing by the local planning authority.	PL/20 23/000 50 /DIS: Approved 9th February 2023
15	Before the development commences a scheme shall be submitted to the Local Planning Authority to demonstrate measures to be implemented to secure the protection and monitoring of the badger sett during works. This scheme shall be approved in writing by the Local Planning Authority and then implemented in full at all times unless otherwise agreed in writing beforehand.	PL/20 23/000 50 /DIS: Approved 9th February 2023
17	No development shall take place until: a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work shall be submitted to and approved in writing by the Local Planning Authority.	PL/20 23/000 68/DIS: Approved 4th April 2023

	<p>b) the programme of archaeological evaluative work and associated postexcavation analysis, report production and archive deposition detailed within the approved WSI shall be undertaken. A report detailing the results of this fieldwork shall be submitted to the planning authority.</p> <p>c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the LPA. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the result of the archaeological evaluation. The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.</p>	
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The Listed Building Consent was subject to six conditions, of which 3, 4 and 6 related to pre-commencement matters. This is set out in the table below:

Condition Number	Condition	Approval Reference
3	No development shall be commenced until samples of all external facing materials including oak for frame repair or replacement, bricks, tiles and lime render to be used have been submitted to and approved in writing by the Local Planning Authority, including by sample panels on site where necessary. Thereafter the development shall be carried out in full accordance with the approved details.	PL/20 23/00579/DIS: Approved 4 <sup>th</sup> April 2023

4	<p>Before the development hereby approved commences details must be submitted to and approved in writing by the Local Planning Authority showing:</p> <p>(a) all elevational materials including traditional pattern cast iron rainwater goods</p> <p>(b) 1:10 drawings of all external frames including details of their enclosing openings (cills, jambs, arches etc.) plus full size sections, glazing details and confirmation of the depth of all door and window recesses</p> <p>(c) 1:10 details and full size sections of all external ironmongery</p> <p>(d) decorative finishes and colours used externally</p> <p>(e) finish/ colour, size, reference number and manufacturer of all rooflights</p> <p>(f) details of the brick bonding, mortar mix and jointing for infill panels, other brickwork and any repairs or additions to the farm building group;</p> <p>(g) details of the underfloor heating system, limecrete floor system, and provisions for underfloor ventilation where required;</p> <p>(h) a Management Scheme for Walford Hall farmhouse to ensure that furniture and other items at first floor impose no unreasonable structural loadings upon the historic building; thereafter the development shall be carried out in accordance with the approved details and maintained for the lifetime of the development.</p>	<p>PL/2023/00579/DIS: Approved 4<sup>th</sup> April 2023</p>
6	<p>No development shall take place until</p> <p>a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work</p>	<p>PL/2023/00064/DIS: Approved 4<sup>th</sup> April 2023</p>

	<p>shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>b) the programme of archaeological evaluative work and associated postexcavation analysis, report production and archive deposition detailed within the approved WSI shall be undertaken. A report detailing the results of this fieldwork shall be submitted to the planning authority.</p> <p>c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the LPA. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation. The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.</p>	
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Although outwith the planning system, it is also relevant to note that Building Regulations approval was obtained (Council reference: BC/2023/00356/COMFP), dated 24<sup>th</sup> April 2023.

Having discharged all pre-commencement conditions related to this development, work was commenced on site. Commencement occurred within the five years allowed by Condition 2 (same number on both consents). Commencement took the form of digging a foundation trench and filling with concrete. Photographs have been submitted showing the filled trench and it is understood that the Council's Heritage Officer has also recently been to site and observed the works.

This demonstrates that development has commenced on site, complying with Condition 2.



## **Supporting Documents**

The following documents have been submitted in support of the application for a Certificate of Lawfulness:

Full Planning Permission Decision Notice PL/2018/02352/PPFL

Listed Building Consent Decision Notice PL/2018/02353/LBC

Discharge of Pre- Commencement Conditions

Site Photographs

Building Control Approval BC/2023/00356/COMFP

## **Lawful Position**

Section 192 of the Town and Country Planning Act (1990) allows for a person to make an application to a local planning authority in order to ascertain whether any proposed use of building or other land or any operations proposed to be carried out in, over or under land would be lawful. The precedent set by the case of *Government of Republic of France v. Royal Borough of Kensington and Chelsea* outlines that an applicant is entitled to use Section 192 to obtain a Certificate of Lawfulness relating to the completion of works pursuant to a planning permission on the basis that those works are lawful because the planning permission has been implemented.

A local planning authority can issue Lawful Development Certificates under Section 192 where it has been demonstrated that the LPA have been provided information satisfying them that the use of operations described in the application would be lawful if instituted or begin at the time of application.

On the basis of the information provided regarding the planning background in relation to the site and supporting documentation, it is respectfully requested that a Certificate of Lawfulness of Proposed Use or Development be granted in accordance with full planning consent PL/2018/02352/PPFL.

It is acknowledged that there is no equivalent to a Certificate of Lawfulness for listed building consents. However, the *Government of Republic of France v. Royal Borough of Kensington and Chelsea* also established that there is no reason why material operations within the scope of planning permission and works within the scope of a listed building consent should be subject to separate standards of implementation. On the basis that the full planning consent has been lawfully implemented, the listed building consent must also have been lawfully implemented. It has been agreed with the LPA that a formal letter confirming this will be issued instead of a Certificate of Lawfulness.

I trust the above is in order, however should you have any queries or require additional information please do not hesitate to contact me.





Yours sincerely

