



Bayles
Chartered Surveyors

Auctioneers Agricultural Valuers Land Agents
Collin David Bayles MA FRICS FAAV DMS (Agric)



Childs Farm, Cottered,
Buntingford, Herts. SG9 9PU
Tel: Cottered (01763) 281 256
Fax: Cottered (01763) 281 652

Also at Nortonbury Farm, Leitchworth, Herts. SG6 1AN - Tel: Baldock (01462) 894517

Regulated by RICS

CDB/1277

**Builders' Workshop and Store at rear (north) of Lower Farm, Throcking
Change of Use (Class MA) from Commercial Business and Service (Use Class E) to
Dwellinghouse (Use Class C3)**

October 2023

Planning Statement

Important Introductory Note

Please be aware that the details of this present application differ in important respects from those of our client's previous application, following amendments to reflect the council's views and decision on that application. As well as setting out all the relevant background to this present application, our planning statement puts a focus on these amendments and on areas where the previous application may have lacked clarity.

1. This statement accompanies and forms part of our client's application to determine if prior approval is required for a proposed change of use of his builders' workshop and store from commercial, business and service use (Use Class E) to use as a dwellinghouse (Use Class C3).
2. Our client believes the change of use proposed is clearly Class MA permitted development as now defined in SI 2021 No.428 The Town and Country Planning (General Permitted Development) (England) Amendment Order 2021 and passes the relevant tests set out there.
3. Our client's application is not for planning permission.
4. As far as possible this statement deals with relevant factors in the order they appear in the application form. Cross-references are provided; for instance "(Ref AF4a)" in this statement refers to Section 4a of the application form and "(Ref PS2)" in the application form refers to paragraph 2 in this statement.
5. Brief answers or comments entered in the application form are amplified, where appropriate, in this statement.
6. The builders' workshop and store which are the subject of this application are sited a little behind and to the north of Lower Farmhouse. They were originally farm buildings and date from the 1960s. During their period of commercial use (see 7., 8. and 9. below) various minor alterations and additions have been made to window and door openings to ensure safe and comfortable working conditions in and around the buildings.

7. (Ref AF4a) They have the benefit of a Certificate of Lawful Use or Development under reference 3/22/1504/CLXU and dated 7th September 2022. A copy of this certificate is attached. It confirms the Local Planning Authority is satisfied that the commercial use of these buildings had been for a continuous period of more than 10 years immediately preceding the date of application for the certificate. That date was 13th July 2022.
8. Ecotech Solutions Ltd. trading as Nationwide Supplies (in this application and statement “Nationwide”) was the licensee in occupation of the building at that date, having taken possession on 1st December 2021. Documents relating to this occupation are with the certificate application.
9. Nationwide continued in occupation until vacating the buildings on 20th October 2022, having given notice on 21st September 2022 of its intention to do so. A copy of that notice is attached.
10. (Ref AF4a) The buildings have been vacant since 20th October 2022, that is for around 11 months immediately preceding the date of our client’s present application.
11. A copy is attached of a letter dated 13th March 2023 from Mr. and Mrs. Brown confirming that the buildings had been vacant throughout the period 20th October 2022 to 13th March 2023. A copy is attached of a statement dated 22nd September 2023 by Mr. and Mrs. Brown, in which they confirm (inter alia) with the support of photographs that the buildings have remained vacant since then and completely empty since 28th May 2023
12. (Ref AF4a) The cumulative floor space of the existing buildings is approximately 350 square metres.
13. (Ref AF4b) A single new dwellinghouse is proposed on the same footprint as the cumulative footprint of the existing buildings. Its floorspace will be approximately 350 square metres.
14. (Ref AF4b) It is apparent from the proposed floor plan that the entire cumulative floorspace of the existing buildings is allocated to facilities appropriate for a single dwellinghouse. The layout does not lend itself to sub-division and none is intended. In what will become a wholly residential location following the change of use now proposed, any further change to a use other than Use Class C3 would have nothing to recommend it from a financial or market point of view.
15. (Ref AF6 Description of proposed development) The existing builders’ workshop and store will be converted as necessary to provide a single substantial family house. These are single storey buildings and will remain so. The conversion will take place entirely within the footprint and silhouettes of the existing buildings and retain as much as possible of their existing structures. The exterior finishes of the converted buildings will match or reflect those currently in place. All twenty exterior door and window opening will be retained in their existing positions and none will be added. Within the buildings appropriate insulation, ceilings, partitioning, floor coverings, services and fittings will be installed. Mains electricity and water supplies are already connected to the buildings. A new eco-friendly sewage treatment plant will be installed. All work will of course comply with Building Regulations and other relevant regulations, guidance and good practice.
16. (Ref AF6 Natural light) These buildings will become a single one-storey dwelling, standing well below and between 15 and 20 metres away from the only two nearby houses, Lower Farmhouse and Fairhaven (see Location Plan and Block Plan). This location and the age and method of construction of the existing buildings mean that the positioning and size of windows and glazed doors has been relatively unconstrained. It is evident from the proposed floor plan and elevations that all parts of the house will be well provided with natural light, via (see 15. above) twenty windows and glazed doors placed in all four of its elevations.
17. (Ref AF6 Transport impacts) This proposed change of use will have a positive transport impact.

At present, access to the builders' workshop and store and to Fairhaven is via a shared concrete roadway from Throcking Lane. Its minimum width is six metres but for much of its approximately fifty metre length it is between seven and eight metres wide. An entrance gate is set back approximately nine metres from the edge of Throcking Lane. The shared roadway/apron between the gate and the edge of Throcking Lane is approximately ten metres wide. The entrance is on the outside of a gradual bend and visibility in both directions is adequate. Traffic generated by the builders' workshop and store has obviously included a good many HGVs and other commercial vehicles. Including normal domestic traffic to and from Fairhaven, there have been between twenty and thirty vehicle movements per day. Following conversion of the builders' workshop and store to a single dwelling, the number of vehicle movements and the proportion of large vehicles will be much reduced.

18. In relation to bin storage (a matter raised by Hertfordshire County Council as Highway Authority in the context of our client's previous application 3/23/0589/COMPN), we confirm that the occupiers of the proposed dwelling will have shared use of the allocated area already used for several years by the occupiers of Lower Farm House and Fairhaven. This adjoins the maintained public highway (Throcking Lane) to the south of the application site. Its position and accessibility match the criteria set out in the Manual for Streets, save that it exceeds the recommended maximum drag distance by approximately 10 metres. Bearing in mind the character and overall layout of the application site and the nearby dwellings, the satisfactory operation and ample size of the existing store and the fully paved route from the application site to the store, we believe the actual drag distance is entirely reasonable and manageable. We attach a plan on which the bin storage area is coloured green.

19. In relation to a neighbour comment made by Mr. and Mrs. J.J. Salmon about ownership of and rights over the shared private access route in the context of our client's previous application 3/23/0589/COMPN, we believe, as such, ownership of and rights granted and reserved over the land which provides access to the existing builders' workshop and store - and which will continue to provide access to the proposed dwelling - are not material considerations in this application. For the sake of accuracy we shall however point out that the relevant legal titles show rights are already granted and reserved over all parts of this access land, so as to ensure lawful continuation of the historic and current shared use by owners and occupiers for the time being of Lower Farmhouse, the existing builders' workshop and store and Fairhaven.

In any event, from the practical and planning points of view and as our planning statement makes clear, the number and size of vehicles using the existing shared access will be much reduced by conversion of the builders' workshop and store to a single four bedroom dwellinghouse.

20. (Ref AF6 Impact on non-residential occupiers nearby) The only non-residential premises nearby is the woodyard, the nearest boundary of which is approximately forty metres to the south-east. It does not share access with the builders' workshop and store and Fairhaven but has its own separate entrance direct from Throcking Lane approximately fifty metres further south. We believe that the change of use proposed here will have absolutely no impact on the occupier of the woodyard, unless in the sense that the volume of traffic in Throcking Lane will be reduced to some extent.

21. (Ref AF6 Noise impacts from commercial premises) There are already two separate residential properties in the relevant vicinity. Fairhaven adjoins the woodyard boundary. The builders' workshop and store is approximately thirty metres to the north-west of Fairhaven, that is thirty metres further from the woodyard. Lower Farmhouse is distinctly closer to the woodyard boundary than is the builders' workshop and store. To the best of our knowledge, the occupiers of Fairhaven

have not experienced any noise-related or other adverse impacts from the woodyard. The occupiers of Lower Farmhouse have confirmed the same – a copy of their letter 16/02/2023 is attached. In any event, prevailing winds will tend to carry any woodyard noise away from the builders’ workshop and store.

The previous application 3/23/0589/COMPN and decision notice 15th May 2023 in relation to the present application (a copy of the decision notice is attached)

22. Three reasons were given for the council’s decision that prior approval was required and refused

1. *“It has not been clearly demonstrated that the application falls within Class E ...”*

- (a) The certificate of lawful use or development dated 7th September is for “*continued use of buildings as builders’ workshop and store for equipment and materials.*” This description of the lawful use is based on evidence of the actual use during a period of approximately 22 years immediately preceding the date of application (registered 13th July 2022).
- (b) For almost the first 21 years of this period the buildings were occupied by Mr. George Folly for the purposes of his small local building business. All materials and equipment in or around the buildings during his occupation were for use by him in the course of his building activities.
- (c) During the remainder of this period the buildings were occupied by Nationwide. We are aware that there is reference to “storage” in the statement of James and Jem Brown (28/06/22) and in the licence to Nationwide, both submitted with that application. The licence document is a pro forma used elsewhere by the licensors and not adapted to reflect the specific use intended in this case. In fact, from early in their occupation Nationwide made preparations for repairs and alterations which would allow them to use the buildings for their head office, accounts and other administrative functions. Initially and incidentally they also fabricated fence panels on a small scale. This pattern of use is illustrated in photographs submitted with the successful application for a certificate of lawful use or development. All materials and equipment in or around the buildings during Nationwide’s occupation were for use in the repairs and alterations or in the fabrication of fence panels.
- (d) Any assumption that Nationwide used the buildings for storage or as a distribution centre, as activities distinct from their actual fabrication and planned office purposes, is wholly incorrect and unrealistic, particularly in view of the fact that they did and do operate a substantial building supplies business from their own purpose-equipped 3 acre site less than two miles away at Buttermilk Hall Farm.
- (e) The statement of Nationwide’s Sales Director dated 22/09/23 and now submitted with this present application, accompanied by a sketch plan, is relevant to the facts set out above (1 (c) and 1(d)).
- (f) There is no suggestion in the description of the lawful use or in the evidence that the storage element of the lawful use was or is anything other than essential storage of equipment and materials used firstly by the builders and subsequently by Nationwide in the course of their own building, fabricating and on-site repair and alteration activities. This is undoubtedly how the description in the certificate of lawfulness and the evidence would ordinarily be understood. This is also exactly how it should be understood in the context of our present application.
- (g) Accordingly, we submit that, for the period of approximately 22 years immediately preceding the date of application for a certificate of lawful use or development and since that date until Nationwide vacated the buildings on 20th October 2022, the actual use of the buildings fell within Use Class B1 or, after amendment of the relevant legislation, Use Class E. Any inference that the use

of buildings fell within Use Class B8, as we believe was suggested by the council's planning officer, or within any Use Class other than former B1 and current E, was and is incorrect.

2. *"It has not been clearly demonstrated that the application building has been vacant for a period of three months immediately prior to the submission of the application."*

(a) The application to determine if prior approval is required was made (registered) on 27th March 2023. Thus the relevant minimum vacancy period is from 27th December 2022 to 27th March 2023. In fact, as is made clear in the planning statement and the letter from Mr. and Mrs. Brown, both of which accompanied that application and which accompanies this present application, the buildings were vacant from the end of October 2022 until 13th March 2023.

(b) More recently, the statement of Mr. and Mrs. Brown dated 22/09/23 and now submitted with this present application, confirms that the vacancy continued after 13th March and is continuing as at today.

(c) In spite of making an earlier visit to the site, the council's planning officer did not inspect the interior of the buildings until a second visit made within a few days of the date of the decision notice. Given that the application was made on 27th March 2023, the relevant 3 month vacancy period was from 27th December 2023. It cannot safely be assumed that a single inspection made in mid-May 2023 (4½ months after the beginning of that period and 1½ months after its end) provided as accurate an impression of the state of the interior during the relevant 3 month period as did Mr. and Mrs. Brown's letter dated 13th March 2023. Accordingly, this reason for refusal is unjustified.

(d) In any event, we believe the items seen inside the buildings by the council's planning officer were few in number and all the personal property of the Brown family at Lower Farmhouse, for example a redundant fitted kitchen recently removed from that house, their children's play equipment and paraphernalia for the family's own horses. The presence of these items was a matter of unplanned and undocumented temporary convenience for the Brown family following the unexpected departure of Nationwide and does not imply that the buildings were in any material way less than clear and immediately available to potential third-party licensees or tenants – "vacant", that is. This informal and small-scale use by the Brown family is "de minimis" in the context of the previous application and of this present application. The statement of Mr. and Mrs. Brown dated 22/09/23 (see 2(b) above) addresses and confirms these factors with photographs.

(e) Accordingly, the buildings can properly be considered "vacant" during the minimum 3 month vacancy period relevant to the application submitted on 27th March 2023.

(f) In any event and without prejudice to their understanding of the proper interpretation of "vacant" in the context of the previous and present applications, the applicants have ensured that the buildings have been completely empty throughout the minimum vacancy period relevant to this present application. This is confirmed in the statement of Mr. and Mrs. Brown dated 22/09/23 and illustrated in the photographs with it.

3. *The proposed development involves works that would go beyond the provisions of Schedule 2, Part 3, Class MA of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).*

(a) The council's planning officer subsequently advised that the works would **not** go beyond those provisions if existing door and window openings remain unaltered. In the light of this advice, this present application involves, as shown on the submitted plans, no such alterations.

(b) Accordingly, this reason for refusal of the application made (registered) on 27th March 2023 will not apply to this present application.

23. The council's planning officer also suggested that we might wish to appeal against its decision on the application made on 27th March 2023. We acknowledge her suggestion but for the time being we prefer to make a second and better supported application, informed to an important extent by the council's interpretation of and comments on the previous application.

24. We believe we have in this statement and in the documents to which it refers provided sufficient evidence to remove any lack of clarity or misunderstanding which may have led to the council's decision on our client's previous application or which might otherwise lead to a similar decision on this present application.

25. We believe also that our client's proposal is permitted development consistent with the spirit, letter and objectives of the relevant current legislation. It will avoid the buildings returning to commercial use or becoming derelict, either of which will have a detrimental impact on their neighbours and the surrounding area.

26. We are ready to have discussions with your council as it considers this application and to provide any explanation or further information which it may feel would be helpful.



C.D. Bayles MA FRICS FAAV DIMS (Agric)
Chartered Surveyor
Applicant's agent

Dated ^{3rd} 3 October 2023

03oc2301.1277 end