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CHARTERED TOWN PLANNERS

01256 766673 | info@bell-cornwell.co.uk | bell-cornwell.co.uk

Planning Department
East Hampshire District Council
Penns Place
Petersfield
Hampshire
GU31 4EX

Our ref: 9757

20 October 2023

Dear Sir/Madam,

CERTIFICATE OF LAWFULNESS (EXISTING) TO ESTABLISH BUILDINGS 1 & 2 AND ASSOCIATED LAND HAVE BEEN USED AS CLASS E (COMMERCIAL, BUSINESS AND SERVICE) IN BREACH OF CONDITION 3 OF PLANNING PERMISSION REF. F.21696/007/FUL FOR A CONTINUOUS PERIOD IN EXCESS OF 10 YEARS – WOODLEA FARM, STATION APPROACH, MEDSTEAD, ALTON, HAMPSHIRE, GU34 5EN

On behalf of our client, we submit with this letter an application for a certificate of lawfulness in relation to the use of Buildings 1 & 2 and associated land (as shown on submitted Block Plan) for commercial purposes (Use Class E) in breach of condition 3 of permission ref. F.21696/007/FUL for a continued period of in excess of 10 years.

Building 1 was originally built as stable block and storage under Planning Permission ref. F.21696/007/FUL. It was converted into an office and manufacturing rooms in late 2011. Building 2 was erected without planning permission, originally as a stable block. At the same time as the conversion of Building 1, Building 2 was converted into an office and showrooms. The land between the buildings has been used in association with the commercial use of Buildings 1 and 2 for activities such as car parking, servicing and deliveries.

Within this statement we provide a history of the property, and also set out the evidence which proves the relevant breach of condition 3 and that the change of use of the buildings and associated land has been for a continuous period in excess of 10 years. Further, that the operational development associated with Building 2 was carried out in excess of 4 years ago. Accordingly, a Certificate of Lawfulness under Section 191 of the Town and Country Planning Act 1990 should be issued.



In support of the application, we submit the following documents:

Site Location Plan

Existing Block Plan

Existing Ground Floor Plans for Buildings 1 and 2

Existing Elevations for Buildings 1 and 2

Statutory Declaration from [REDACTED]

Statutory Declaration from [REDACTED]

Statutory Declaration from [REDACTED]

Statutory Declaration from [REDACTED]

Statutory Declaration from [REDACTED]

Letter dated 29th September 2023 from [REDACTED] Commercial Director of Porthaven Care Homes

Letter dated 2nd October 2023 from [REDACTED] of Impact Sewing Machinery Ltd.

Letter dated 15th September 223 from [REDACTED] of Sheen Stickland Chartered Accountants

Application Form.

The requisite planning application fee has been paid via the planning portal at the time of submission. This letter forms part of the formal application as the planning (legal) statement.

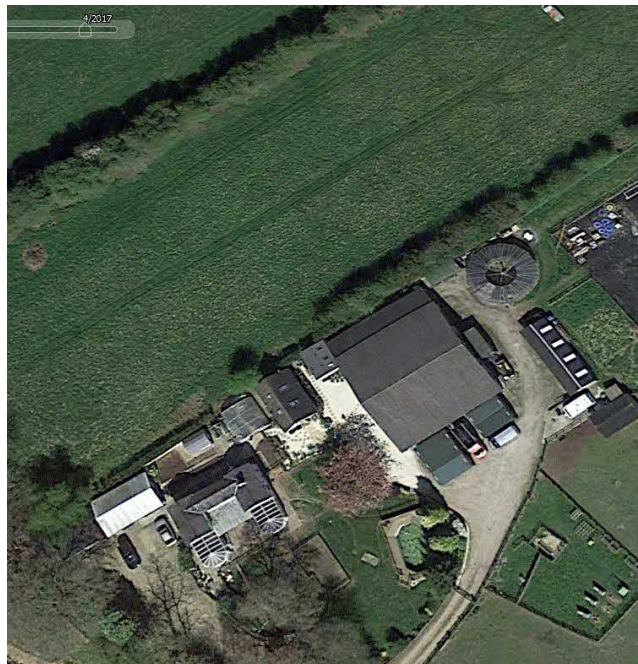
[APPLICATION SITE AND PLANNING HISTORY](#)

The application site at Woodlea Farm is located to the north of Station Approach. The site comprises Building 1, a former stable block and storage building, and Building 2, a former stable block. Building 1 now contains offices and manufacturing rooms associated with the business Care Homes Interiors Ltd. Building 2 provides an office, meeting room and showrooms associated with the business Care Homes Interiors Ltd.

Building 1 was originally granted planning permission under ref. F.21696/007/FUL for the replacement of a stable block/storage barn, games room and sand school (revised scheme to F21696/005). That decision was issued on 31st July 2006. The approved Block Plan is shown below.



The next available Google Earth aerial image is dated April 2017, which shows both buildings following their conversion in late 2011.



The next aerial image is dated July 2019, shown below, and continues to show Buildings 1 and 2 post conversion into the offices, manufacturing rooms and showrooms that are contained within the buildings today.



The final image is the most recent, taken in April 2022, which shows the buildings remain in situ, as they are today.



In light of the above dated aerials, it is evident that Building 1 was erected following the grant of permission in July 2006. It was subsequently converted into offices and manufacturing rooms in late 2011 and has remained in that use continuously until the present day.

Building 2 was erection at the same time as Building 1, but without express permission. In 2010, the 4 years had passed, and the building became lawful. In late 2011, it was converted to provide an office and showroom in association with Building 1 and the surrounding land.



PLANNING LAW

Condition 3 of planning permission ref. F.21696/007/FUL states 'The development hereby permitted shall be used only as private, non-commercial stabling incidental to the enjoyment of the dwellinghouse as a private residence and for no other purpose.'

Section 191 of the Town and Country Planning Act 1990 (Certificate of Lawfulness of existing use or development) states that:

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

It goes on to say that:

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

If, on an application under this Section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

The time limits for enforcement are set out under Section 171B, the most relevant of which for the determination of this Certificate application is:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.



Evidence is provided in support of this application, in order to meet the criteria of Sections 171B and 191 of the Town and Country Planning Act 1990. The evidence is provided with the aim of establishing the following facts:

Aerial images showing Buildings 1 and 2 existed in 2008, thus the operational development associated with the erection of Building 2 is now lawful.

[REDACTED] who is the owner of the site and the businesses operating from Buildings 1 and 2 at Woodlea Farm has provided a detailed Statutory Declaration. This sets out that she built both buildings towards the end of 2006. Both buildings were then converted in late 2011 so that her business, Vivid Living, could operate from the site. Since then, Kerry has operated her business from the site continuously, employing at least 10-11 people at any one time, until the present day. In fact, in recent years the business, now called Care Homes Interiors, has grown from strength to strength and currently employs 25 people at the site.

[REDACTED] Statutory Declaration also includes the relevant planning permission documents, Company House records details the registered address of the company's as Woodlea Farm and a letter from Sheen Stickland Chartered Accountants, who have attended meetings at the site for over 10 years.

Statutory Declarations from four employees at the site; [REDACTED]
[REDACTED] These all confirm that they have worked out of Buildings 1 and 2 since 2011.

The land and buildings have been owned and occupied by the owner/applicant for a continuous period since 2011, thus complying with the minimum 10 years required to demonstrate a breach of condition.

Any immunity required has accrued under section 171B (3) of the Town and Country Planning Act 1990.

EVIDENCE

In addition to the above, evidence has been submitted as follows:

Statutory Declaration from [REDACTED]
Statutory Declaration from [REDACTED]



Statutory Declaration from [REDACTED] n

Statutory Declaration from [REDACTED]

Statutory Declaration from [REDACTED]

Letter dated 29th September 2023 from [REDACTED] Commercial Director of Porthaven Care Homes

Letter dated 2nd October 2023 from [REDACTED] of Impact Sewing Machinery Ltd.

Letter dated 15th September 2023 from [REDACTED] of Sheen Stickland Chartered Accountants

CONCLUSION

In light of the evidence produced to support this application, it is clear that on the balance of probability condition 3 has been breached and, in addition, that the change of use of the buildings and associated land has been for a continuous period in excess of 10 years. In relation to Building 2, which was built without permission in 2006, this became lawful in 2010 following a period of 4 years. Accordingly, a Certificate of Lawfulness under Section 191 of the Town and Country Planning Act 1990 should be issued.

Article 39(9) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states that a local planning authority “may require the applicant to provide such further information as may be specified to enable them to deal with the application”. The applicant is keen to ensure that the local planning authority has accurate and complete information; the local planning authority is welcome to seek clarification on any points raised or request any further information.

We trust that the detailing and documents presented with this application provides unequivocal evidence of the condition breach and respectfully request that, unless the Council has evidence to the contrary, a Certificate of Lawfulness be issued under Section 191 of the Town and Country Planning Act 1990.

If you require any further information, please do not hesitate to contact the writer.

Yours faithfully,

BELL CORNWELL LLP

Ryan Snow
Associate
rsnow@bell-cornwell.co.uk

cc. client