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**APPLICATION FOR A CERTIFICATE OF LAWFULNESS**

**IN RESPECT OF THE**

**RETENTION OF MARQUEE AS TEMPORARY STRUCTURE DURING BUILDING WORKS**

**ST ANNE'S HOUSE, JENNYCLIFF LANE, PLYMOUTH PL9 9SN**

**ON BEHALF OF**

**ST ANNE'S HOUSE PLYMOUTH LTD**

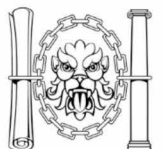
**OUR REF: 21277**

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1. EXECUTIVE SUMMARY
  - 1.1.1 Laurence Associates are retained by St Anne's House Plymouth Ltd ('the applicant') to progress an application for a Certificate of Lawfulness in respect of the lawful retention of an existing marquee as a temporary structure during building works; at St Anne's House, Jennycliff Lane, Plymouth PL9 9SN ('The Site'). A site location is submitted alongside this Supporting Statement which highlights the full extent of the land and building which the application relates to.
  - 1.1.1 The Town and Country Planning Act 1990 (as amended) under Section 191(2) states that any use or operation for which planning permission has not been granted is lawful, if the works did not involve development / did not require planning permission. Section 191(4) states that if the Local Planning Authority (LPA) is provided with information satisfying it of lawfulness of such a breach the Authority must issue a certificate to that effect.
  - 1.1.1 This Statement explains how the marquee, which was subject to an enforcement notice on 13<sup>th</sup> November 2023, constitutes permitted development under Class A, Part 4, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - 1.1.2 The fact that the marquee constitutes a building or structure which is required temporarily in connection with and for the duration of operations carried out on the site, namely for the purpose of the construction of a pool building, means that the marquee constitutes permitted development, and no enforcement action may be taken in respect of it, in line with s.192(2) of the TCPA 1990.
  - 1.1.3 For the reasons set out, it is submitted that the issuing of a Certificate of Lawfulness is appropriate and should be forthcoming.

## 2. BACKGROUND

- 2.1.1 The site received conditional approval under APP/N1160/W/23/3318375 (original application ref: 22/00837/FUL) for the construction of a pavilion pool building on the site. This building is to replace the marquee which is the subject of the proposed development, and the proposed development is to retain this marquee while the preliminary works for the construction of the pool building, approved under APP/N1160/W/23/3318375 are undertaken in respect to the pool and the foundations for the new building.
- 2.1.2 The site itself sits on the western side of the grounds of St Anne's House, which is a Grade II Listed dwellinghouse which benefits from consent for use as a wedding venue and holiday lets (ref: 20/00418/FUL and 20/00419/LBC).
- 2.1.3 The pool area is to the western area of the gardens adjacent to St Anne's House. The pool is surrounded by a southern enclosure formed of masonry pillars and black painted steel railings, but this is entirely screened from the garden by a vegetative evergreen hedge of approximately 3-4 metres in height.

### 3. RELEVANT PLANNING HISTORY

3.1.1 The following planning applications are relevant to the proposed development:

22/00837/FUL: Proposed Pavilion pool building – Refused on 15<sup>th</sup> September 2022 (Appeal allowed with conditions under APP/N1160/W/23/3318375 on 05/10/2023).

07/00368/LBC: Construction of swimming pool in garden – Decided Listed building consent not required on 26<sup>th</sup> April 2007.

#### 4. ASSESSMENT

4.1.1 The application seeks an Existing Certificate of Lawfulness because Laurence Associates are of the opinion that the marquee is not development in the context of acting as a temporary structure in connection with the building works for the new pool building, which would ordinarily be granted under the Act or by the General Permitted Development Order.

4.1.2 Part 4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which refers to Temporary building and uses, sets out in Class A, which itself refers to temporary buildings and uses, the following:

##### 4.1.3 Permitted development

A. The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.

##### Development not permitted

A.1 Development is not permitted by Class A if—

(a) the operations referred to are mining operations, or

(b) planning permission is required for those operations but is not granted or deemed to be granted.

##### Conditions

A.2 Development is permitted by Class A subject to the conditions that, when the operations have been carried out—

(a) any building, structure, works, plant or machinery permitted by Class A is removed, and

(b) any adjoining land on which development permitted by Class A has been carried out is, as soon as reasonably practicable, reinstated to its condition before that development was carried out.

- 4.1.4 In assessing the above, it is first made clear that the marquee would either constitute a building or moveable structure, likely dependent on how it is built and fixed to the land and is therefore a provision allowed by the permitted right.
- 4.1.5 The marquee will be used as a temporary structure in a similar vein as to a scaffolding tower or scaffolding frames to allow for and assist with construction works underneath for the pavilion pool building. The marquee is therefore to be used in connection with a development/operation.
- 4.1.6 When assessing A.1, it is clear that the operations referred to are not mining works and the operations, being the pavilion pool building, were 'granted' under APP/N1160/W/23/3318375 (original application ref: 22/00837/FUL). As such the provision of the marquee building/structure is not in conflict with these requirements.
- 4.1.7 As required by A.2, the building/structure will be removed when development/operation has been carried out and any associated land restored.
- 1.1.1 The marquee, as a temporary building/structure, is therefore permitted development, as allowed under Class A, Part 4 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). For these reasons outlined within this statement, a Certificate of Lawfulness should be issued in line with the provisions of s.191(5) of the same Act.

## 5. PLANNING/LEGAL PROVISIONS

### 5.1.1 Section 192 (Certificate of lawfulness of proposed use or development) of the Town and County Planning Act 1990 sets out the following:

(1) If any person wishes to ascertain whether—

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use or operations to be lawful; and

(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

### 5.1.2 This application is evidence of such a submission, and it is considered that the works have been sufficiently evidenced to be permitted development. The application clearly indicates the land/building and the operations in question,



with reasons given. Due to this, the temporary building/structure should be granted as lawful under/via the allowances of Class A, Part 4 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

## 6. CONCLUSIONS

- 6.1.1 It has been clearly demonstrated that the marque, which represents a temporary building/structure, is permitted by Class A, Part 4 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 6.1.2 Accordingly, it is considered that an Existing Certificate of Lawfulness for building works which are not development / benefitted from planning can be granted and in line with the provisions of Section 191 and 192 of the Town and Country Planning Act 1990.
- 6.1.3 Should any further points arise from this submission, I would ask that the matters are referred back to this company, as agents for the applicant, before any formal decision is made on the application.