

LOCAL PLANNING AUTHORITY: CHORLEY COUNCIL - APPLICANT NAME: MR BEN LEWIS

USE OF LAND EDGED RED AS COMMERCIAL EQUESTRIAN STABLES BUSINESS ON LAND ADJACENT WALMSLEYS BARN, WOOD LANE, HESKIN, CHORLEY, LANCASHIRE, PR7 5NP FOR A PERIOD EXCEEDING 10 YEARS (REF: 1/1250 SCALE SITE LOCATION PLAN - "MN1", 1/500 SCALE SITE LAYOUT PLAN - "MN2", PHOTOGRAPHS OF SITE - "MN3", BRIEF HISTORY OF THE EQUESTRIAN FACILITIES AT WALMSLEYS BARN, WOOD LANE, HESKIN, PR7 5NP - "MN4" AND SUPPORTING PLANNING STATEMENT - "MN5" TO ACCOMPANY A CERTIFICATE OF LAWFUL USE APPLICATION FOR EXISTING DEVELOPMENT TO BE SUBMITTED TO CHORLEY COUNCIL – ANNEXED HERETO).

SUPPORTING PLANNING STATEMENT – "MN5"

BACKGROUND

The subject property is owned by Mr. Ben Lewis. The use of the property as commercial equestrian stables business has been undertaken on all of the land and buildings outlined in red on the attached plans for a period in excess of 10 years (Sui Generis Use).

STATUTORY DECLARATIONS

The property has thus been used in excess of 10 years as commercial equestrian stables business and this is confirmed by the submitted Statutory Declarations (4) and letters (4) by people including the previous owner's daughter, current owner and other relevant people who have known the subject property over the relevant time period. These people have rented, owned, known or have been closely associated with the subject property and land as a commercial equestrian stables business operating from the site continuously for this entire period including;

Statutory Declarations (4)

Ben Lewis – Current owner (11th February 2024), Carole Louise Nix – Current renter of stables, outbuildings and sand paddock (6th February 2024), Judith Ann Horridge – former stable user and friend of the late Frank Bretherton (15th February 2024), Jean Moss – Friend of Louise Nix (6th February 2024)

Letters (4)

James Fisher – Hay supplier to Louise Nix since 2017 (8th February 2024), Samuel Neil Dyson – S Dyson Farriery Ltd – Farrier to Louise Nix since 2017 (8th February 2024), Wendy Gee – Daughter of original owner the late Mr. Frank Bretherton (17th February 2024), Catherine Nelson – neighbour and friend of the late Frank Bretherton (22nd February 2022)

The land and property outlined in red has been used as commercial equestrian stables business for in excess of 10 years and this fact is confirmed in the Statutory Declarations / letters that this is true. The use of the site as commercial equestrian stables business has therefore been undertaken by different owners for in excess of 10 years continuously and this is confirmed by the above persons.

ADDITIONAL SUPPORTING EVIDENCE

We also supply additional supporting evidence as follows;

1. Photographs of the land / property being used for the purposes of commercial equestrian stables business – "MN3".
2. History of equestrian facilities at Walmsleys Barn, Wood Lane, Heskin, PR7 5NP – "MN4".

CONSIDERATION OF LAWFUL DEVELOPMENT CERTIFICATES

It is important to consider a number of important points when considering Section 191 application for a lawful development certificate for an existing use as follows;

1.

When an application for a lawful development certificate for an existing use or operation or activity including those in breach of a planning condition under the Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991 is submitted, it is important to note that the relevant completed form contains a Declaration stating; "I/we hereby apply for a Lawful Development Certificate as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them. WARNING: The amended section 194 of the 1990 Act provides that it is an offence to furnish false or misleading information or to withhold material information with intent to deceive".

Therefore, it is considered that the applicant has confirmed the "facts stated are true and accurate".

2.

In appeals to the Secretary of State which raise "legal issues", where the burden of proof is on the appellant, the Courts have held that the relevant test of the evidence on such matters is "the balance of probability". As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt".

3.

Moreover, the Court has held (see *F W Gabbitas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted.

4.

If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

5.

The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application.

CONCLUSIONS

We therefore conclude that the use as a commercial equestrian stables business has been operated at the subject property on the land outlined in red for in excess of 10 years by different owners and this is confirmed to be factual by the submitted Statutory Declarations and additional supporting evidence attached.