

**SUPPORTING STATEMENT FOR
CERTIFICATE OF LAWFUL USE**

FOR

**THE EXISTING USE OF BUILDING
AS CLASS E(G)(III) LIGHT
INDUSTRIAL USE**

AT

**UNIT 11 CHURCH END FARM,
LITTLE HADHAM,
WARE
SG11 2DY**



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Appendices (uploaded as separate documents)

- Appendix 1 Tenancy at Will to Mokut for Unit 11 dated 1st January 2014.
- Appendix 2 Statutory declaration from Mr John Ruane, director of Ruane Developments Ltd.
- Appendix 3 Statutory declaration from Mr Phillip Knott, the owner of Mokut.
- Appendix 4 Statutory declaration with photographic evidence dated September 2013 and 2017 from Mr James Watchorn, director at Swordsers.
- Appendix 5a A copy of the annual advertisement produced by Mokut, from November 2013 to February 2024.
- Appendix 5b A screenshot of the files for the above advertisements.
- Appendix 6 Comments submitted by Mr Paul Collins in objection to application reference 3/21/1768/FUL.



1.0 INTRODUCTION

1.1 A Certificate of Lawful Use is sought under Section 192 of the Town and Country Planning Act 1990 for the existing use of a building for Class E(g)(iii) light industrial purposes. The application is made on the basis that the building, as shown on the submitted plans, has been used for this purpose, without interruption or material change in scale, nature or intensity for in excess of 10 years without an enforcement or any other notice being served.

2.0 NATIONAL LEGISLATION AND POLICY

2.1 Under Section 171B of the Town and Country Planning Act 1990 (as amended) immunity is given to unauthorised uses that have prevailed for ten years without enforcement action taken against them.

2.2 In order for a Certificate of Lawfulness to be granted the planning authority needs to be satisfied that, on the balance of probability, the use has operated on the same piece of land without significant interruption or material change in scale, nature or intensity for 10 years prior to the date of the application and is thus now immune from enforcement proceedings.

2.3 The NPPG requires that the relevant test in the case of applications for existing uses and operational developments is the 'balance of probability', and states in Paragraph: 006 Reference ID: 17c-006-20140306 that:

'if a local planning authority has no evidence itself, nor any 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.'



- 2.4 The documentation and statutory declarations attached to this report present a clear record of the use of building for Class E(g)(iii) light industrial use having taken place in excess of 10 years.
- 2.5 The Town and Country Planning Act Use Class Order defines Class E(g)(iii) as any industrial process which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
- 2.6 The building has predominantly been used for the purposes of lawnmower repairs and servicing, although there are also areas of ancillary office/desk space and storage. It is considered this use fits within the definition of Class E(g)(iii) detailed above.
- 2.7 The use of the building under Class E(g)(iii), light industrial was also confirmed by the case officer in relation to an application to change the use of Unit 11 to Class E (reference 3/21/1768/FUL) in 2021. This application was refused, however the case officer commented as follows in the Officer's Report:
- It is acknowledged that a full range of Uses permitted under Class E may have the potential to result in additional noise and disturbance being experienced by nearby residential occupiers. However, the proposed office and/or light industrial use would not be dissimilar to the existing use as a lawnmower repair business or for agricultural use (as per the lawful use of the building).*
- 2.8 On this basis, it is considered the use falls under Class E(g)(iii), however if it is the Case Officer's view in this instance that the use should be B2, the applicant would also accept this position.

3.0 BACKGROUND INFORMATION AND EVIDENCE

- 3.1 The applicant purchased Church End Farm in 2016 and since then has gradually upgraded the existing commercial units. The result has been to create a series of high-quality units providing space for local businesses.



3.2 Since at least September 2013, Unit 11 has been occupied by Mokut Mower Services, owned by Phillip Knott. Mokut are a lawnmower repairs and servicing business and also offer commercial lawnmowing services. The unit has been used for lawnmowing repairs and servicing, as well as ancillary office/desk space and storage continuously since 2013.

Evidence submitted with this application includes:

- A Tenancy at Will to Mokut for the unit dated 1st January 2014.
- A statutory declaration from Mr John Ruane, director of Ruane Developments Ltd.
- A statutory declaration from Mr Phillip Knott, the owner of Mokut.
- A statutory declaration with photographic evidence dated September 2013 and 2017 from Mr James Watchorn, director at Sworders, who has had ongoing professional involvement with the site since prior to 2013.
- A copy of the annual advertisement produced by Mokut, from November 2013 to February 2024 showing unit as the business address. These are also visible on the Facebook page for the business. A screenshot of these files on Mokut's electronic system is also included.
- Comments submitted by Mr Paul Collins in objection to application reference 3/21/1768/FUL.

Each of the above pieces of evidence is now addressed in turn.



- 3.3 The Tenancy at Will is clearly signed at dated 1st January 2014. It is signed by Mr P Knott on behalf of Mokut and Mr David Collins, as director of Hadham Industrial Estates Ltd. The lease plan at the rear of the agreement clearly shows it relates to the building subject to this application. The agreement does not have an end date, however this is not required to form a Tenancy at Will, the purpose of such an agreement is to allow it to roll on indefinitely until either party wish to terminate it.
- 3.4 A statutory declaration has been provided by Mr John Ruane, director of Ruane Developments Ltd, who bought the site in 2016. In the declaration, Mr Ruane details that under his ownership Mokut have continuously occupied the space, which is predominantly used as a lawnmower repair workshop, however there is also some ancillary storage and a small office/desk space. Prior to purchasing the site, Mr Ruane was told that Mokut had been in occupation since 2013.
- 3.5 A second declaration has been provided by Mr Phillip Knott which again details his business' occupation of the space since 2013 and also the activities carried out within the space, namely lawnmower repairs and servicing, as well as areas of ancillary office and storage.
- 3.6 The final declaration has been provided by Mr James Watchorn, a director at Sworders. Mr Watchorn has worked at Sworders since 2005 and has carried out work for both the current and previous owners of Unit 11. Sworders' Hertfordshire office is less than 1 mile from the site and therefore Mr Watchorn is very familiar with the site. He also dealt with the sale of the site on behalf of the previous owners to Ruane Developments Ltd.
- 3.7 Submitted with his declaration is photographic evidence held in Sworders' files, the 'date modified' is shown to demonstrate when the photos were uploaded to Sworders' file system.



- 3.8 Each year, Mokut offer a winter lawnmowing service discount, this is detailed in a mailshot which is then sent out to customers and uploaded onto the business' Facebook page (although not every year is on the Facebook page). The yearly discount mailshots are included with this application to demonstrate the continuous occupation of the unit by Mokut and also the type of work carried out within the unit. Also included is a screenshot of all these files saved in the Mokut files system, demonstrating when each file was last modified.
- 3.9 The final piece of evidence is a comment previously submitted by Mr Paul Collins in relation to an application to change the use of Unit 11 to Class E (reference 3/21/1768/FUL) which was submitted on 2021. This application was refused, however the comment submitted by Mr Collins provides useful background on the occupation of the unit.
- 3.10 Mr Collins' parents owned the site prior to Ruane Developments purchasing it in 2016. The comment details evidence to support the fact that the use of the building has been Class E(g)(iii), rather than B2, and also details when the agricultural use ceased (2013). Whilst in the planning statement submitted for that application it was stated that the use had been continuous since 2011, this was not relevant as it was a full planning application rather than a lawful development certificate. The applicant has since checked his records in support of this application to confirm the use commenced in 2013.
- 3.11 The planning statement for 3/21/1768/FUL also considered B2 to be the most appropriate use class, however having considered Mr Collins' comments, and the case officer's for that application (referenced above in paragraph 2.7) it is deemed Class E(g)(iii), light industrial is most appropriate.
- 3.12 Mr Collins details that there have never been any complaints submitted to EHDC regarding the use of the building in relation to noise, smell or vibration. The use is clearly industrial, therefore it is deemed the use complies with the requirements of Class E(g)(iii), light industrial.



4.0 CONCLUSION

4.1 In summary, this application provides sufficient evidence for the local authority to conclude that, on the balance of probability, the use for which a Certificate is applied for has been taking place for in excess of 10 years. As such, in accordance with the guidelines set out in NPPG, a Certificate of Lawful Development should be granted under the provisions of Section 171 of the Town and Country Planning Act 1990.