

Our ref:MW/SA/Heppelthwaite/CLEUD

1st December 2021

Planning & Community Services,
London Borough of Hillingdon,
3N Civic Centre,
High Street,
Uxbridge,
Middlesex,
UB8 1UW

Willis & Co.

Chartered Town Planners
30 The Causeway
Chippenham
Wiltshire
SN15 3DB

Telephone: (01249) 444975
Facsimile (01249) 655556
Email: Willisplan@aol.com

Dear Sir,

Town and Country Planning Act 1990
Certificate of Lawfulness in respect of the use of a mobile home as a dwellinghouse at Georges Yard, Springwell Lane, Harfield, UB9 6PG

I am instructed by the applicant, Mr and Mrs F. Heppelthwaite, to prepare and submit the enclosed application for a Certificate of Lawfulness under the provisions of Section 191 (1) (a) of the above Act. Please find enclosed in support of the application:

- The completed application forms;
- The location plan at a scale of 1:1,250 numbered DWG 10 with the property outlined in red;
- The block plan at a scale of 1:500 numbered DWG 11;
- Plans and elevations of the former mobile home numbered DWG 1;
- Plans and elevations of the existing mobile home numbered DWG 2;
- Appeal decision ref; APP/E2001/X/13/2196915 at The mobile home, Willow Garth, Owstwick Road, Danthorpe, Hull HU12 9AE;
- A signed Statutory Declaration from Mrs Linda Heppelthwaite dated 25th October 2021;
- A signed Statutory Declaration from Mr Duncan Belcourt dated 8th November 2021;
- The evidence labelled enclosed with each signed Statutory Declaration (as Appendix):

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- A. The Location Plan numbered HEP/01;
- All the evidence labelled:
 - A. The Location plans numbered HEP/01 and DWG 10, marking the dwelling and its curtilage;
 - B. A photograph of the previous mobile home numbered HEP/02;
 - C. A photograph of the replacement and existing mobile home numbered HEP/03;
 - D. An aerial photograph dated 14th July 2003 and an aerial photograph dated 1st July 2006;
 - E. An aerial photograph dated 24th April 2010;
 - F. A signed Statutory Declaration from Mr Andrew Springham dated 7th June 2013;
 - G. Tenancy agreements signed by Ms Sam Jones dated 21st March 2012 and 2013;
 - H. Lloyds bank statements showing the rent being paid by Ms Sam Jones and Mr Duncan Belcourt - dated 17th April 2012 - 21st March 2021;
 - I. Southern Electric letters and bills dated from 20th November 2008 to 21st January 2010;
 - J. Letters received by the applicant on 15th October 2021 addressed to the previous occupants; and
 - K. Various letters of proof from third parties.
- The relevant planning application fee of £462 payable to London Borough of Hillingdon.

Certificate of Lawfulness for an existing use

Introduction and Background

1. The applicants have lived at Weybeards Farm at Hill End for many years. In March 2012, they bought some 16.2 hectares (40 acres) of grazing land and buildings known as Georges Yard from the previous owners, Mr and Mrs Reed who, themselves, had bought Georges Yard in 2001.
2. When Mr and Mrs Reed owned the site they had sited a mobile home (the mobile home was built in accordance with BS:3632 as a Residential Park Homes and is therefore a caravan) on the land and they allowed Mr A. Springham, a farrier, to live in there as his permanent residence after his marriage had ended.
3. When Mr and Mrs Reed moved out of Cripps House Farm, in approximately 2001, they rented the farmhouse and yard to a third party until approximately 2003 and then to Ms Sam Jones, her then boyfriend and his parents.
4. Mr Springham lived in the mobile home from November 2001 until October 2005 when he purchased a new home in Aston Clinton, Buckinghamshire and he

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moved there. A signed Statutory Declaration by Mr Springham was submitted with a previous Certificate of Lawfulness application for the existing use (CLEUD), ref; 2078/APP/2013/2657, and this is again submitted as evidence (Document F).

5. Soon after Mr Springham moved out of the mobile home a new tenant moved in, who Ms Sam Jones who previously lived in the farmhouse with her family. Ms Jones kept horses (Hilton Horses) at Georges Yard and she moved into the mobile home in October 2005, when Mr Springham had moved out. Ms Sam Jones needed somewhere to stay due to personal reasons and having to leave the farmhouse at Cripps House Farm.

6. Although Ms Sam Jones lived at Georges Yard since October 2005 she started to pay rent in the Autumn 2009. The reason being is that between October 2005 and Autumn 2009 Georges Yard formed part of the original tenancy agreement of Cripps House Farm when it was owned by the previous owner.

7. The mobile home was found on the site and occupied by Ms Sam Jones when the applicants purchased the site (March 2012) and at the same time as the applicants purchased the land, they obtained a tenancy agreement that was signed by Ms Sam Jones regarding her continued occupation of the mobile home. In fact, two tenancy agreements were signed by Ms Sam Jones and the are attached as Document F.

8. Ms Sam Jones lived in the mobile home until December 2014. Unfortunately Ms Sam Jones has since passed away and therefore a letter to confirm this cannot be obtained.

9. When Ms Sam Jones moved out of the mobile home Mr Duncan Belcourt moved in with his brother, Max; that was in December 2014. Mr Duncan Belcourt moved out but Mr Max Belcourt continued to reside in the mobile home until March 2021. We have included a signed Statutory Declaration signed by Mr Duncan Belcourt.

10. Unfortunately Mr Max Belcourt left the mobile home in poor condition and the applicants also sited updated and newer mobile home in its place as the original mobile home was no longer suitable. This is quite normal and the replacement mobile home will be of a similar size and is sited in the same location. This is completely acceptable in regards to a CLEUD and will be discussed later in this letter.

11. Section 191 of the above Act provides a mechanism for the applicant to seek a Certificate of Lawfulness to establish whether an existing development is lawful under the provisions of the Act. In this case, the development comprises the siting of a mobile home for use as a dwellinghouse.

The use of the mobile home as a separate dwelling

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12. Before we look at the mobile home being used as a separate dwelling we must note the previous refused Certificate of Lawfulness for an Existing Use of the mobile home as a dwellinghouse. This was refused on 31st October 2013 under ref; 2078/APP/2013/2657.

13. Although the application was refused the Council did not dispute whether the mobile home had been present on the site for a 10 years period but only that they did not consider that the evidence showed that the residential use had continued for a 10 year period. This application, with additional evidence, will show that the residential use has happened for at least the past 10 years.

14. Having bought the land with the mobile home in March 2012, Ms Sam Jones was already living in the dwelling (since 2005), and she continued to live in the mobile home when the applicants purchased the site (March 2012) and it continued to be her sole and, therefore, principle residence.

15. In December 2014 a new occupant, Mr Duncan Belcourt, moved into the mobile home with his brother, Max. Duncan Belcourt moved out but Max Belcourt lived in the dwelling until March 2021. A signed Statutory Declaration of Mr Duncan Belcourt is enclosed with this submission.

16. We have obtained bank statements to show payment of the rent from both Ms Sam Jones (shown as Hilton Horse) and Mr Duncan Belcourt (Document H).

17. The mobile home has been continually occupied as a separate dwelling with no breaks in occupation since October 2005; nearly 16 years with the most recent occupant living in the mobile home from December 2014 to March 2021. The previous mobile home was in a poor state of repair so when Mr Max Belcourt left the dwelling the applicant took the opportunity to replace it and a new occupant will be found to reside in the dwelling. A new rental agreement will be agreed. The previous mobile home was removed in the middle of April 2021 and the new structure was fully sited on the site at the beginning of July 2021.

18. Although there is a main house found on the site, and the services; gas, water and electricity were shared; the mobile home is completely separate from it and the occupant lives in there completely independently to the main house. Electricity bills for the mobile home are paid by the occupants (Document I). The letter from Southern Electric, dated 21st January 2010, to Ms Sam Jones was in regards to the electric bill at the mobile home and was addressed to the occupant.

19. This means that the latest date that enforcement action could be taken would have been some ten years thereafter it was first brought on the site and resided within; that is October 2005. The mobile home that is the subject of this application is now immune from planning enforcement. When determining the previous application ref; 2078/APP/2013/2657 the Council did not dispute that the mobile home was on the site for over ten years, moreover, they wanted some

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more evidence to show that it was occupied as a separate dwelling. This additional evidence is enclosed.

20. The evidence that the mobile home/mobile home has been on the land since October 2005 is set in the enclosed Statutory Declaration. It will be noted that when the cabin was first bought into use a septic tank was installed with the electricity supply being connected from the adjacent barn with the agreement of the owners.

21. Although the electricity is charged and paid to the main address the occupants are charged separately for the electricity and water supply as well as foul drainage as shown in the enclosed evidence. Documents I shows correspondence with the electricity company about separating the supplies. This was ultimately considered not to be worthwhile but the correspondence shows that the dwelling was separate to the adjacent barn and that there can be no issue of concealment (which was also agreed when the Council refused ref; 2078/APP/2013/2657).

22. Since the latest tenant, Mr Max Belcourt, moved out the applicants have taken the opportunity to replace the mobile home with a new structure as the previous one had become in a poor state of repair. The new more comfortable structure is found on the site. The old structure was removed in April 2021 with the new structure found on the site in early July 2021. Although the new structure is larger, it is not significantly larger, and will sit, in the majority, on a similar footprint as the structure that was replaced (Documents B and C show the previous and replacement structures).

23. The applicant has obtained several letters from third parties to further support this application (Document K).

24. Case Law indicates that a dwellinghouse does not have to be occupied by the same person throughout the four year period and that breaks between occupiers (of even several months - which is not the case here) need not result in the breach coming to an end, see *Swale BC v FSS and Roger Lee [2005]* and *Basingstoke and Deane Borough Council v SSCLG and Sir Thomas Stockdale [2009]*.

25. I attach an appeal decision which explores this particular issue (ref; APP/E2001/X/13/2196915 at The caravan, Willow Garth, Owstwick Road, Danthorpe, Hull HU12 9AE). In this appeal case, there was a gap of 6/7 months between removing the old caravan and bringing the new caravan on to the site. The LPA argued that this was a break in the continuous breach, but happily the Inspector sided with the appellant and allowed the appeal. The Inspector noted that *"The appellants' case is that this use then continued, albeit that another mobile home was not brought onto the land until about six months later, in October 2004. There was, however, no intervening use of the land, neither was the use abandoned or physical works undertaken which were incompatible with*

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the continuation of the use”.

26. This appeal decision, which is enclosed, clearly shows that a caravan can be replaced (which is common practice as they need renewing) so long as the land is not used for any other use in the intervening period.

27. The applicants have replaced the mobile home and this only took just over a 2 months to find, source and site the new structure so it is clear that, in accordance with this appeal decision, the use of the land remained and was not interrupted.

28. We consider that there cannot be any issues of concealment in terms of Welwyn (see below) as the mobile home has been openly situated and has not been camouflaged or disguised and has also been the subject of a previous application to the LPA. Indeed the fact that the applicants looked into supplying a separate electricity supply and previously submitted an application on the site means that concealment cannot be considered to be an issue.

Summary

29. As set out above we consider that the signed Statutory Declarations from the applicant and Mr D. Belcourt, along with the enclosed written evidence, provide the necessary proof that the use of the mobile home as a dwelling was substantially completed and that it has been used as a dwellinghouse for over 10 years and continues to be used as a dwellinghouse.

30. In addition to the signed Statutory Declarations, we have enclosed as evidence (Documents A - K) to show that the mobile home has been present and lived in as a separate dwelling on the site since at least October 2005, for over 10 years. The evidence includes:

- i. The Location plans numbered DWG 10 and HEP/01, marking the dwelling and its curtilage (Document A);
- ii. A photograph of the previous mobile home numbered HEP/02 (Document B);
- iii. A photograph of the replacement and existing mobile home numbered HEP/03 (Document C);
- iv. An aerial photograph dated 14th July 2003 and an aerial photograph dated 1st July 2006 (Document D);
- v. An aerial photograph dated 24th April 2010 (Document E);

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- vi. A signed Statutory Declaration from Mr Andrew Springham dated 7th June 2013 (Document F);
- vii. Tenancy agreements signed by Ms Sam Jones dated 21st March 2012 and 2013 (Document G);
- viii. Lloyds bank statements showing the rent being paid by Ms Sam Jones and Mr Duncan Belcourt - dated 17th April 2012 - 21st March 2021 (Document H);
- ix. Southern Electric letters and bills dated from 20th November 2008 to 27th November 2009 (Document I);
- x. Letters received by the applicant on 15th October 2021 addressed to the previous occupants (Document J); and
- xi. Various letters of proof from third parties (Document K).

31. We have included various signed a Statutory Declarations with this submission as well as other items of evidence, including numerous letters of proof from third parties, which clearly shows that the mobile home and its residential curtilage, as edged in red on the accompanying location plan numbered HEP/01, has been found on the application site and lived in as a separate dwelling for a period in excess of ten years; that is since October 2005.

32. Therefore, the application should be granted under Sections 171 A (1) (a) and Section 171 B (3) as well as Section 191 (1) (a) which provide that:

171 A Expressions used in connection with enforcement.

(1) For the purposes of this Act—

(a) carrying out development without the required planning permission;

171 B Time limits.

(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.

191 Certificate of lawfulness of existing use or development

(1) If any person wishes to ascertain whether—

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

33. In my professional judgment, I am satisfied that the evidence described above demonstrates clearly and unambiguously that the mobile home and its residential curtilage (as edged in red on the enclosed location plan) has been found on the application site and been used as a separate dwelling for a period in excess of ten years.

34. If the Council has evidence to the contrary, I invite it to share the information with us.

35. I trust that you have all the information and evidence required to register and determine this application and I look forward to hearing from you in due course.

36. I look forward to hearing from you in due course.

Yours faithfully,



Stuart Anderson BTP MA MRTPI