APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR AN EXISTING USE OR OPERATION OR ACTIVITY INCLUDING THOSE IN BREACH OF A PLANNING CONDITION.

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191 AS AMENDED BY SECTION 10 OF THE PLANNING AND COMPENSATION ACT 1991.

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015

In Respect of Land at:-

Trout Road

Yiewsley

West Drayton

Middlesex

UB7 7RT

APPENDIX G

Delegated Decision - 31 October 2019

46642/APP/2019/2169

Residents Services

APP. REF. NO: 46642/APP/2019/2169

DELEGATED DECISION

- *Please select each of the categories that enables this application to be determined under delegated powers*
- *Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.*

APPROVAL RECOMMENDED: GENERAL	Select Option
1. No valid planning application objection in the form of a petition of 20 or more signatures, has been received	☐
2. Application complies with all relevant planning policies and is acceptable on planning grounds	☐
3. There is no Committee resolution for the enforcement action	☐
4. There is no effect on listed buildings or their settings	☐
5. The site is not in the Green Belt (but see 11 below)	☐
REFUSAL RECOMMENDED: GENERAL	
6. Application is contrary to relevant planning policies/standards	☐
7. No petition of 20 or more signatures has been received	☐
8. Application has not been supported independently by a person/s	☐
9. The site is not in Green Belt (but see 11 below)	☐
RESIDENTIAL DEVELOPMENT	
10. Single dwelling or less then 10 dewlling units and/or a site of less than 0.5 ha	☐
11. Householder application in the Green Belt	☐
COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT	
12. Change of use of retail units on site less than 1 ha or with less than 1000 sq m other than a change involving a loss of A1 uses	☐
13. Refusal of change of use from retail class A1 to any other use	☐
14. Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use.	☐
CERTIFICATE OF LAWFULNESS	
15. Certificate of Lawfulness (for proposed use or Development)	☐
16. Certificate of Lawfulness (for existing use or Development)	☐
17. Certificate of Appropriate Alternative Development	☐
CERTIFICATE OF LAWFULNESS	
18. ADVERTISMENT CONSENT (excluding Hoardings)	☐
19. PRIOR APPROVAL APPLICATION	☐
20. OUT-OF-BOROUGH OBSERVATIONS	☐
21. CIRCULAR 18/84 APPLICATION	☐
22. CORPSEWOOD COVENANT APPLICATION	☐
23. APPROVAL OF DETAILS	☐
24. ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where Heads of Terms have already received Committee approval	☐
25. WORKS TO TREES	☐
26. OTHER (please specify)	☐

The delegation powers schedule has been checked. Director of Residents Services can determine this application.

Case Officer

Katherine Mills

Signature:

Date: 31st October 2019

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informatives are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be Issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DATES SHOULD BE USED IN THE PS2 RETURNS TO THE ODPM

Report of the Head of Planning, Transportation and Regeneration

Address MEADOW COTTAGE, STORAGE LAND TO FRONT OF TROUT ROAD YIEWSLEY

Development: Use of the site for storage/sales/purchase of building materials and plant equipment, repair, fabrication, welding, construction, architectural salvage and office facilities (Application for a Certificate of Lawful Development for an Existing Development)

LBH Ref Nos: **46642/APP/2019/2169**

Drawing Nos: Land Situated at Trout Lane
Witness Statement from Applicant
Exhibit RJT1 - Copy of original witness statement and exhibits RJT1 to RJT14 (from previous application ref: 46642/APP/2018/2407)
Exhibit RJT2 - True copies of diaries from 2018 to date relating to the business activities that have been carried out within the planning unit
Exhibit RJT3 - Insurance Policy Schedules
Exhibit RJT4 - National Non-Domestic Rates Bill
Exhibit RJT5 - Business Accounts
Exhibit RJT6 - Schedule of Rental
Exhibit RJT7 - True copies of a selection of collection sheets and sales invoices from January 2018 to date
Exhibit RJT8 - Photographs

Date Plans Received: 27/06/2019 **Date(s) of Amendment(s):**

Date Application Valid: 27/06/2019

1. RECOMMENDATIONS

1.1 Recommendations

That a certificate of lawful use or development be **REFUSED** for the existing development described above in respect of the land edged red on the attached plans for the following reasons:

The existing development does not constitute Lawful Development under Section 191 of Town and Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 as the Applicant has not demonstrated that, on the balance of probability, the uses have existed and been continuous for at least a period of ten years, prior to the date of this application.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

2.0 APPRAISAL OF EVIDENCE SUBMITTED

The application site is located on the north-eastern side of Trout Road with Fray's River

along the eastern site boundary. Wraysbury Drive is located on the opposite side of the river and comprises residential properties. 1-16 Merrivale Mews, Tavistock Road, are located to the south-east whilst to the south of the site lie 1-3 Poplar Cottages, Trout Road. Hillingdon Fencing Co Ltd is located to the south-west of the site and William Boyer & Sons Ltd to the west. Trout Villa, Trout Road is located to the north of the site. The application site is located within the Green Belt.

The application seeks a certificate of existing lawful use for the use of the site in excess of ten years for storage/sales/purchase of building materials and plant equipment, repair, fabrication, welding, construction, architectural salvage and office facilities.

The application site is currently subject to an enforcement investigation regarding unauthorised use of the land. The site has been the subject of significant number of enforcement proceedings and an enforcement notice was served in July 2017. The notice related to the unauthorised use of land which represents inappropriate development within the Green Belt without the benefit of planning permission. The applicant appealed against the enforcement notice (Planning Inspectorate ref: APP/R5510/C/17/3182522). The Planning Inspector considered that "the enforcement notice does not specify with sufficient clarity the alleged breach of planning control and the land where the breach is alleged to have taken place" and so the enforcement notice was deemed to be invalid and was quashed in December 2018.

The Council's Planning Enforcement Team has commented as follows:

The site is located on Green Belt land in the south of the borough. The site has been subject to a number of planning enforcement investigations since 2015, namely the unauthorised use of the land for off-airport parking, storage and sale of motor vehicles, storage of containers and the storage of building materials. Consequently, the unauthorised uses of land represent inappropriate development within the green belt and are contrary to local policy. Accordingly, an enforcement notice was served on 19 August 2019 requiring the cessation of the use of land for mixed uses including car sales, car storage, siting of storage containers and the storage of building materials.

A new enforcement notice for the unauthorised use of land for mixed uses including car sales, car storage, siting of storage containers and the storage of building materials was served on 19/08/2019 and the notice takes effect on 19/09/2019, with a three month compliance period, i.e. 19/12/2019.

It is for the Applicant to supply information that is sufficiently precise and unambiguous to satisfy the Council that on the balance of probability the site has been used for the purposes of storage/sales/purchase of building materials and plant equipment, repair, fabrication, welding, construction, architectural salvage and office facilities of more than 10 years, prior to the date of the application. The relevant 10 year period is therefore to 27-06-09 to 27-06-19.

The following documents were submitted:
Application Form
Location Plan - Land Situated at Trout Lane
Witness Statement from Applicant
Exhibit RJT1 - Copy of original witness statement and exhibits RJT1 to RJT14 (from previous application ref: 46642/APP/2018/2407)
Exhibit RJT2 - True copies of diaries from 2018 to date relating to the business activities that have been carried out within the planning unit
Exhibit RJT3 - Insurance Policy Schedules

Exhibit RJT4 - National Non-Domestic Rates Bill
Exhibit RJT5 - Business Accounts
Exhibit RJT6 - Schedule of Rental
Exhibit RJT7 - True copies of a selection of collection sheets and sales invoices from January 2018 to date
Exhibit RJT8 - Photographs

The additional information submitted as part of this application has been reviewed by the Council's Legal Department, with the following comments made:

In coming to the above decision I have considered:

An application by Mr Beard (the "Agent") made on behalf of Mr Richard Tillyer of Meadow Cottage Applicant) containing the standard completed application form which encloses:

· Site Location Plan;
· Photographs of the property covering August 2017;
· Invoices 2018 - 2019
· Business Accounts for 2017 - 5th April 2018
· Council Tax 2018 - 2020;
· Excel print out demonstrating rental income April 2018 - March 2019
· Diary exerts 2018 - 2019;
· Witness Statement and Exhibits Of Richard Tillyer 1 - 240 Pages

My advice is based solely on the information provided. If you have any further information on your file that could be relevant (including any site visits or conversations you may have had with neighbours etc) please let me know.

This application concerns a certificate of lawfulness for the B2 General Industrial Use of the site for storage/sales/purchase of building materials and plant equipment, repair, fabrication, welding, construction, architectural salvage and office facilities.

The Council would need confirmation that the use claimed has been continually carried out without interruption for a continuous period of 10 years prior to the application, which means the date starts to run from 30th June 2009.

There are gaps in the evidence to show storage use can be seen taking place on the site, and no other evidence is provided to corroborate the statements covering the relevant 10 year period. Clarification also needs to be sought as to the nature of the items that can be seen in the photographs and whether they accord with the storage use applied for.

I have not seen any evidence of servicing and maintenance on the application site. Taken together, the evidence that has been provided goes some way in proving that the application site has been used for storage, but not for 2009 and 2015 with photographic evidence. There was enforcement action around the site around 2015, and there is reason to believe that this had interrupted the continuous use.
The Council would require further evidence confirming that the use applied for has been carried out continually and without interruption for a period of 10 years prior to the application in order for the legal test to be met. The onus to provide sufficient information is upon the Applicant.
In conclusion, the evidence provided is not sufficiently precise and unambiguous to demonstrate that on the balance of probabilities, the use applied for on the site has been

continuous and uninterrupted for at least a period of ten years prior to the date of this application. I note that the agent states that no enforcement action has been taken, however you may wish to liaise with the Council's Planning Enforcement Team to confirm that this is the case (Officer Comments: the Planning Enforcement Officer has confirmed that there is an enforcement notice currently in place for the alleged use of the site).

With regard to the existing bund and the hard surfacing in the middle part of the property, on the evidence provided in the statutory declarations and aerial photography, it appears on balance that they have been in situ and were substantially completed more than 3 years before the date of the application. However I would suggest that you check any relevant evidence the Council may have in this regard and carry out a site visit to confirm the situation on the site.

The applicant has a right to appeal to the Secretary of State if the application is refused, or partially refused or not determined by the Local Planning Authority within 8 weeks of the application being correctly lodged. The appeal could seek the issue or modification of any CLEUD sought. Any further appeal would then be against the Secretary of State to the High Court under s.288.

One objection has been received from the Action Group for Yiewsley and West Drayton:
i) We feel that over the past 10 years the site in question has deteriorated and is an increasing eyesore in the area as it has the appearance of a scrap yard, and we would hope that the applied for extension of 10 years and indeed any further extension is refused.

A response was received from Cadent Gas Limited advising that there is Cadent/National Grid apparatus in close proximity to the application site. The application is for a Certificate of Lawfulness for the continued use of the site for storage of use and so would not impact on underground gas apparatus.

Conclusion:
Following consultation with the Council's Legal Team, and a full review of evidence submitted, it is concluded that the applicant has not provided sufficiently precise and unambiguous evidence to demonstrate that on the balance of probabilities, the use applied for on the site has been continuous and uninterrupted for at least a period of ten years prior to the date of this application.

The application for a Certificate of Lawful Use of the site for storage/sales/purchase of building materials and plant equipment, repair, fabrication, welding, construction, architectural salvage and office facilities for more than ten years is therefore recommended for refusal.

3.0 Relevant Planning History

46642/APP/2013/2366 Meadow Cottage Trout Lane Yiewsley

Erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 7 metres, for which the maximum height would be 4 metres and for which the height of the eaves would be 2.5 metres

Decision Date: 25-09-2013 Refused

46642/APP/2013/3002 Meadow Cottage Trout Lane Yiewsley

Erection of a single storey rear extension which would extend beyond the rear wall of the original house by 8 metres, for which the maximum height would be 4 metres, and for which the height of the eaves would be 2.5 metres

Decision Date: 21-11-2013 Refused

46642/APP/2014/1460 Meadow Cottage Trout Road Yiewsley

Erection of a single storey rear extension which would extend beyond the rear wall of the original house by 8 metres, for which the maximum height would be 4 metres, and for which the height of the eaves would be 2.5 metres

Decision Date: 05-06-2014 Refused

46642/APP/2014/3734 Meadow Cottage Trout Lane Yiewsley

Decision Date:

46642/APP/2014/3957 Meadow Cottage Trout Lane Yiewsley

Erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 4 metres, for which the maximum height would be 4 metres, and for which the height of the eaves would be 2.5 metres

Decision Date: 15-12-2014 Refused

46642/APP/2018/2407 Meadow Cottage, Storage Land To Front Of Trout Road Yiews

Use of the site for purchase/sale/storage of building materials and plant equipment, repair, fabrication, welding, construction, architectural salvage and office facilities (Application for a Certificate of Lawful Development for an Existing Development).

Decision Date: 10-10-2018 Refused

Contact Officer: Stephen Volley **Telephone No:** 01895 250230