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 H

Delegated Decision – 2 July 2018

46642/APP/2018/2407

HILLINGDON
LONDON

Sections 191 and 192
(as amended by section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 2015
ARTICLE 39

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Mr David Beard
3 York Road
Wimbledon
London
SW19 8TP

Ref: 46642/APP/2018/2407

In pursuance of their powers under the above mentioned Act and Order, the London Borough of Hillingdon (The Council) as Local Planning Authority hereby **REFUSE** your application for a Certificate of Lawful Use or development under section 191 of the Act.

Description of development:	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).
Location of development:	MEADOW COTTAGE, STORAGE LAND TO FRONT OF, TROUT ROAD, YIEWSLEY,
Date of Application:	2 July 2018
Plan Numbers:	See attached Schedule of Plan

The grounds for the Council's decision are listed on the attached schedule:-

James Rodger

Head of Planning, Transportation and Regeneration

Date: 10 October 2018

Notes: Your attention is drawn to the attached sheet which sets out the rights of applicants who are aggrieved by the decision of the Local Planning Authority.

Sections 191 and 192
(as amended by section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 2015
ARTICLE 39

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application Ref: 46642/APP/2018/2407

SCHEDULE

The grounds for the Council's decision are as follows:-

Reason for Refusal

1 · 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 there is an extant enforcement notice relating to the site.

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

2 · 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 use has 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

END OF SCHEDULE

Address:
Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

Sections 191 and 192
(as amended by section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 2015
ARTICLE 39

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application Ref: 46642/APP/2018/2407

SCHEDULE OF PLANS

Location Plan (1:1250) - received 29 Jun 2018

RIGHTS OF APPLICANTS AGGRIEVED BY DECISION OF LOCAL PLANNING AUTHORITY

TOWN AND COUNTYRY PLANNING ACT 1990

Application for Certificate of Lawfulness

Notes

If you are aggrieved by the decision of the Local Planning Authority to refuse an application for a certificate under Sections 191 or 192 of the Town and Country Planning Act 1990 (as amended) or to refuse it in part, you may appeal to the Department of Communities and Local Government (DCLG), under Section 195 of the Act (as amended).

Notice of appeal must be given in writing to the Planning Inspectorate, 3/02 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel; - 0117 372 8428). Appeal forms can be downloaded from the Planning Inspectorate's website at **http://www.planning-inspectorate.gov.uk.** Copies of all relevant documents, including the application, the notice of decision and all plans, drawings and correspondence, must be supplied to the Inspectorate.

You are advised to consult the brief official guide and appeals, published by the Department of Communities and Local Government (DCLG), this and appeal forms can be obtained from the Planning Inspectorate on request.

Address:
Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

Residents Services

APP. REF. NO: 46642/APP/2018/2407

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

Signature:

Date:

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 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).

LBH Ref Nos: **46642/APP/2018/2407**

Drawing Nos: Location Plan (1:1250)

Date Plans Received: 29/06/2018 **Date(s) of Amendment(s):**

Date Application Valid: 02/07/2018

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 there is an extant enforcement notice relating to the site.

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

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 use has 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 seeks a certificate of lawful use for the land to the front of Meadow Cottage, Trout Road, as general industrial land (B2) for purchase/sales/storage of building materials and plant equipment, repair, fabrication, welding, construction, architectural salvage and office facilities.

The council's legal team have examined this application and have confirmed that

insufficient information has been provided. Furthermore they have concluded that the main witness statement in support comes from the applicant and is unclear in many areas and confusing in relation to the land edged in blue. For example the site drawing does not correlate with title plan documents and the applicant has not specified what area of land his application relates to.

The Evidence Considered:

I have considered an application by Mr Richard Tillyer (the Applicant). I have requested on two occasions missing information from the application which has been provided to me. I have therefore considered:

- Location plan - this has the entire site edged in red but with sub-sections edged in blue, green and yellow.
- Witness statement of Richard Tillyer and exhibits RJT1-RJT15
- Witness statement of Barry Marks and exhibit BM1
- Witness statement of Christine Howell
- Witness statement of John Chubb
- Witness statement of Matthew Grover and exhibit MG1
- Witness statement of Roy Rowledge
- Enforcement notice ref KG/ENF/7992 (using the site drawing this relates to the land edged in green and part of the land edged in blue)
- Enforcement notice ref HS/ENF/11944(A) (using the site drawing this relates to the land edged in green and part of the land edged in blue)

The summary of the council's detailed legal response is set out below with the following extracts:

Comments on the land edged in blue
Exhibit RJT3 and the location plan show the same site drawing. The application does not state which area of land the application relates to. However, much of the applicant's evidence focuses on the land edged in blue. This land is registered under title number NGL47779 and is known as the site of The Trout Public House, Frogmore Green, Yiewsley. Having viewed the title plan for the site (page 8 of RJT1) the site as it is outlined there in red is smaller than the land edged in blue on the location plan.

It appears that part of the land edged in blue is registered under title number AGL2301, known as land on the North East side of Trout Lane, Yiewsley, West Drayton. This is the land edged in green on the site drawing. This can best be seen by considering the location of Meadow Cottage on the drawings.

It also appears that the land edged in blue encompasses a section of Trout Lane that can be seen on the two title plan images.

Exhibit RJT7 - photographs of equipment and materials currently on the site:
None of the photos bear a date or time stamp. I would therefore place little weight on them as evidence of what was on the site at the time of application.

Exhibit RJT9 - insurance documents
The applicant has insured the industrial units in front of 1-3 Meadow Cottages continuously during the timeframe 27 April 2004 to 26 April 2010 (pages 10-16).This insurance covers seven units.
From 27 April 2010 to 26 April 2011 the applicant changed his insurance policy for the units, reclassifying the seven units.

The following year he made further changes and there is no longer any reference to the units, but rather to 1-7 Meadow Cottages. He insured the premises as a motor vehicle repair centre and offices from 27 April 2011 to 26 April 2013 (pages 7-8). There was a gap in insurance for two years when insurance commenced again for the same activities from 27 April 2015 to 26 April 2016.
Several pages in this exhibit do not have time frames on them, and so I cannot identify the period of time that the insurance policy covers.

Exhibit RJT10 - rates
I am unclear exactly which bills the applicant says relate to the land edged in blue and which relate to the land edged in green.
In any event the entries which appear to possibly relate to the land edged in blue and which show use as general industrial land, only cover the period from 1 April 2015 to 31 March 2018.

Exhibit RJT11 - aerial photographs
It is difficult to make out exactly what is on the land but there does appear to be consistently several cabins. I am unable to make out anything else.

Exhibit RJT12 - accounts
Accounts (which are in the name of the closed company Agentease) show a rental income of £122,324 in 2011, £132,527 in 2012, £130,238 in 2013, £129,381 in 2014, £135,231 in 2015, £144,580 in 2016 and £165,025 in 2017. Prior to 2011 they show sales or rent receivable in excess of £100,000 each year.

Exhibit RJT13 - cash books
This is two rent books. The first is for a Mr Grover who rented the 'large workshop at the rear of Meadow Cottages'. It shows £150 paid weekly from 11 February 2006 to 26 December 2015.
The second is for a Mr D Tillyer (assume a relative of the applicant) who rented a 'workshop at the rear of Meadow Cottages'. It shows £35 paid weekly from 5 January 2001 to 29 March 2003, then £45 weekly up until 2 April 2005, then £55 weekly up until 24 October 2015.

Exhibit RJT14 - receipts/orders/delivery notes
This exhibit is actually photographs of bags which appear to contain paperwork which is labelled 'accounts'. It shows a huge volume of material, none of which can be read or is viewable. I would therefore place very little weight on this evidence.

Witness statement of Barry Marks
Mr Marks confirms he rented unit 4 since June 1999 for car repairs and services, he confirms his unit is within the area edged yellow on exhibit BM.1 and is marked unit 4. I have been provided with a black and white copy of this exhibit, it appears that unit 4 is with the land edged yellow on the location plan.

Witness statement of John Chubb
Mr Chubb confirms he rented a storage container since June 2002 until present. No location details given.

Witness statement of Matthew Grover
Mr Grover confirms he rented unit 5 since 2006 in respect of his business which is repairs and services of machinery plant forklifts, cranes etc. He confirms his unit is within the area edged yellow on exhibit BM.1 and is marked unit 5. I have been provided with a black and white copy of this exhibit, it appears that unit 5 is with the land edged yellow on

the location plan.

Witness statements of Roy Rowledge and Christine Howell
Ms Howell refers to the 'Meadow Cottage Site' and Mr Rowledge refers to 'the land situated at Trout Lane'. There is no clear reference to what area of land these refer to or highlighted on the site plan.

Comments on the land edged in yellow
The applicant relies on exhibits RJT4 and RJT5 as evidence of the use of this land.

RJT4 is a statement from Mrs Rita Mersh, a joint owner of the land, dated 21 July 2016. It does not therefore cover the past 2 years of use.

Comments on the land edged in green
The applicant states that this area has been used continuously for storage of goods and materials, plant and machinery (paragraph 9.2 of his witness statement). The applicant has provided no evidence to support this claim. He refers to having set this out earlier in his statement. What appears earlier in his statement is details of the use of the land edged in blue and yellow, but not green.

OFFICER COMMENTS:

It is for the Applicant to demonstrate and supply information that is sufficiently precise and unambiguous to satisfy the Council that on the balance of probability that the entire site edged in red has been in use for purchase/sales/storage of building materials and plant equipment, repair, fabrication, welding, construction, architectural salvage and office facilities; for a period of 10 years prior to the date of the application and has been used so continuously since then.

It is clear from both the council's legal comments and from the evidence provided that the information provided is unclear, inconsistent, inadequate and noticeably ambiguous. Therefore the council cannot be satisfied that the entire site which is edged in red has been in lawful use as stated for a period of 10 years prior to the date of the application and has been used so continuously since then.

In addition to the above, in this instance the site has been the subject of significant number of enforcement proceedings and an extant enforcement notice has been served on the property and site. The notice relates to the unauthorised use of land which represents inappropriate development within the green belt without the benefit of planning permission.

Taking all matters into consideration the application 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

Contact Officer: Hardeep Ryatt **Telephone No:** 01895 250230