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Planning Environment Design

Planning and Development
Hinckley and Bosworth Borough Council
Hinckley Hub
Rugby Road
Hinckley
Leicestershire
LE10 0FR

Our Ref: BRW-001-R

Your Ref:

Date: 15th May 2025

Dear Sir/Madam

RE: SECTION 191 OF THE TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION FOR A CERTIFICATE OF LAWFUL EXISTING USE OR DEVELOPMENT (CLEUD) FOR AN EXISTING RESIDENTIAL PROPERTY AT THORNTONBURY LIMITED ('THORNTONBURY'), THORNTON LANE, THORNTON, LEICESTERSHIRE, LE67 1AL

I write in relation to the above property, having been instructed by our client, Melanie Brewster to prepare and submit a Certificate of Lawful Existing Use or Development (CLEUD) under Section 191 of the Town and Country Planning Act 1990 (as amended).

The evidence presented within the application demonstrates that part of the existing consented stables building at the above premises changed use to a single dwelling house (Use Class C3) more than 4 years prior to 25th April 2024.

In addition to the below statement, the CLEUD submission includes the following supporting documentation:

- Completed application form and certificates;
- Site Location and Block Plan;
- Evidence A – Aerial Photographs;
- Evidence B – Interior Photographs;
- Evidence C – Lease Agreement with Garrod/Camm (dated 1st April 2019);
- Evidence D – Witness Statement Garrod (dated 30th October 2024);
- Evidence E – CPR Part 8 Claim Form (Leicester County Court) (dated 25th October 2024);

- Evidence F – Lease Agreement with Tuck (dated 1st January 2025); and
- The requisite application fee of £588.00.

The above information complies with the validation requirements for a Certificate of Lawfulness application as set out in Article 39 of the Town and Country Planning (General Management Procedure) Order 2015.

It is noted that whilst the onus of proof lies with the applicant when a Certificate of Lawfulness application is made, the National Planning Policy Guidance sets out that where the Local Planning Authority (LPA) has no evidence of its own or from others that contradicts an applicant's case or otherwise makes it '*less than probable*', there is then no good reason to refuse the application, provided that the applicant's evidence alone is sufficiently '*precise and unambiguous*' to justify the grant of a certificate '*on the balance of probability*'.

Legislative Background

Section 191 of the Town and Country Planning Act 1990 (as amended) relates to Certificates of Lawfulness in respect of an existing use or development. As noted above, applications for a Certificate of Lawfulness are a legal evidence-based assessment based on the balance of probabilities.

Section 191 (1) states:

'If any person wishes to ascertain whether –

- a) Any existing use of buildings or other land is lawful;*
- b) Any operations which have been carried out in, on, over or under land are lawful; or*
- c) Any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful.*

He may make an application for the purpose to the Local Planning Authority specifying the land and describing the use, operations or other matter.'

Section 191 (2) continues by stating:

'For the purposes of this Act uses and operations are lawful at any time if –

- a) No enforcement action may be taken in respect of them whether because they did not involve development or require planning permission or because the time for enforcement*

action has expired or for any other reason; and

b) They do not constitute a contravention of any of the requirements of any enforcement notice in force.'

Section 171B of the Town and Country Planning Act 1990 (as amended) regarding 'Time Limits' sets out that:

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of:

(a) In the case of a breach of planning control in England, 10 years beginning with the date of the breach.

Prior to 25th April 2024, the above time limit as set out under Section 171B for the change of use of any building to a single dwelling house was 4 years beginning with the date of the breach rather than 10 years. As such, transitional provisions exist which mean that if the breach of planning control was already in place on 24th April 2024, then the 4-year rule still applies. It is under this transitional arrangement that this application for a Certificate of Existing Lawful Use is made. It is the assertion of the applicant that the breach (change of use from a stable to a single residential dwelling) occurred from at least November 2019 meaning that by November 2023, the use of the stable as a permanent single dwelling was lawful and therefore immune from any enforcement action and thus its legal planning use.

The Application Site

The site lies approximately 1.25km to the east of the village of Thornton and approximately 600m to the east of Thornton Reservoir. The site is accessed from Thornton Lane on the eastern side of the site via a secure, gated access.

The site covers an area of approximately 3.72ha and comprises stables, a 3-bedroom dwelling, menage, horse paddocks and associated outside storage of equestrian paraphernalia, horse boxes etc.

The stables are comprised of two buildings: Stable 1 a converted agricultural building originally built to house livestock and Stable 2, a later addition purpose-built stables block which lies to the north-west of Stable 1, between Stable 1 and the menage. The dwelling subject to this application is contained within a single storey side extension on the north-eastern side of Stable 2.

The location of the site and layout of the existing buildings is shown on the enclosed Site Location and Block Plan.

Planning History

Hinckley and Bosworth Borough Council's online planning records identify the following planning history for the site.

Planning Application Ref	Description of Development	Decision
09/00986/GDO	Erection of agricultural building to keep livestock	General Development Order January 2010
10/00811/FUL	Erection of Four Stables and feed/tack room	Granted January 2011
15/00820/FUL	Conversion and extension of agricultural building for stables, formation of menage, improvements to existing access, hard surfaced parking and turning area and change of use of land for the keeping of horses	Granted November 2015
15/00375/FUL	Siting of a mobile home	Refused May 2015
19/00715/FUL	Single storey side extension to existing stables (retrospective)	Granted 21 August 2019

The first permission (09/00986/GDO) was granted via way of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and allowed the erection of the main building on the site, the barn, now stables (Stable 1) located at the front (south-eastern end) of the stable complex. A historic aerial image shows this present in site at least by April 2015.

A further planning permission was granted in January 2011 (10/00811/FUL) to extend the stables, but this was never implemented and the permission subsequently lapsed.

In November 2015, planning permission was granted under 15/00820/FUL to convert and extend the agricultural building to create stables and for the construction of a menage along with hard surfaced car parking and turning areas and the change of use of land for the keeping of horses. It was this permission that essentially established the equestrian use of the site. A historic aerial image shows this present on site by at least April 2018. It is the side section on the north-eastern side of Stable 2 which was constructed for use as residential accommodation.

In August 2019, a retrospective planning permission was granted for the side extension to the stables which was already present on site from at least 2018 and has remained since. It is this element of the building which has been used as a residential dwelling since 2019.

Evidence A provides aerial photographs which show the site as follows:

- April 2015 – Original Building/Stable 1 present on site; and
- April 2018 – Stables 1, 2 and Stable Extension (dwelling) plus menage etc present on site.

Evidence B shows a number of internal photos of the residential part of the building and its separate entrance.

Supporting Evidence

To comply with the relevant legislation, evidence has been provided to demonstrate that the side stable extension at the property has been used for a period of more than 4 years as a residential dwelling. The supporting evidence is outlined below.

Use of the Premises as an Equestrian Business by Ms Nichols

The premises was first rented to Ms Nichols from 2015 to early 2019 and operated as a stables/livery. It was during the early part of this tenancy that the permission for a mobile home on the site was sought and refused. At the time of the application, the reason given for the mobile home was for the safety and security of the horses which could only in the applicant's view, be fully provided with a permanent on-site presence. It is known that Ms Nicholls and her two children occupied the side extension (residential element) during 2019.

Use of the Premises as an Equestrian Business and Dwelling by Garrod and Camm

A lease agreement was entered into by the applicant with Mr Garrod and Ms Camm on 1st April 2019 for the site. The lease agreement is provided as **Evidence C**. It is noted that the terms of the lease agreement was for the use of the premises for its legal use for agriculture.

Mr Garrod and Ms Camm began running their horse livery, training, sales, breeding and farrier business (Trilogee Stud) from the site in April 2019 in accordance with the lease. By November 2019 however, Mr Garrod and Ms Camm were using the premises as their permanent residence. This is confirmed in Mr Garrod's Court Witness Statement dated 30th October 2024 and enclosed as **Evidence D**.

The premises was used as an equestrian facility and permanent dwelling by Mr Garrod and Ms Camm until they were evicted from the property by the applicant on 17th October 2024 following the issue of an eviction notice by the applicant on 1st April 2024. The eviction notice was issued due to unpaid rent and other property management and maintenance matters. Mr Garrod made a claim to Leicester County Court on 25th October 2024 against the eviction. **Evidence E**, a CPR Part 8 Claim Form submitted to the court under court case reference L01LE368 sets out details submitted to the court by Mr Garrod which specifies that the property was their residential and business address.

It is clear from the above timeline and supporting evidence that Mr Garrod and Ms Camm lived at the site both as their permanent residence and ran their equestrian business from the site between November 2019 and 17th October 2024, in total for a period of 4 years and 11 months. By the 24th April 2024, they had been living at the site in the property as their residential home for 4 years and 5 months. As such, as the breach of planning control took place over a period of 4 years to prior to 25th April 2025, the use is therefore immune from enforcement action and therefore the residential element of the site constitutes a legal use of that element of the site.

Use of the Premises as an Equestrian Business and Dwelling by Mr Tuck

Following the eviction of Mr Garrod and Ms Camm from the site (business and residential) in October 2024, work was undertaken by the applicant to remove all of the former tenants' residential and business property from the site, which due to the nature of property and the on-going court process took a number of weeks. During this time, the applicant identified a new tenant for the site, Mr Tuck, who signed a lease to operate a livery and horse breeding business from the site and live permanently on the site in the residential property from 1st January 2025. Mr Tuck has been in situ since that time. A copy of the lease for information is attached at **Evidence F**.

Conclusion

In light of the enclosed evidence, and on the balance of probability, there is no contrary evidence to dispute that a stable was in use as a residential property at Thornton Stables, land to the north-east of Reservoir Road, Thornton, Coalville, Leicestershire, LE67 1AR for a period of at least 4 years prior to 25th April 2024. The use continues today. For the reasons set out above, a Certificate of Existing Lawful Use should be issued.

We trust that the above and the enclosures are self-explanatory. If however, you have any questions or require any further information, please do not hesitate to contact me.

We would request that **Evidence C-F** inclusive are either not placed on the public file due to the nature of the content or they are appropriately redacted.

Yours sincerely,

Louise Thorne
Planning Director
Heaton Planning Limited

Encs.