

Lawful Development Certificate

Certificate of Lawful Existing Development to demonstrate the two plots subject to planning application 22/00061/P3CQ, Plot 1 Great Meadow Barn and Plot 2 Sutton View, Dadlington Lane, Stapleton, LE9 8JL, are substantially completed and benefit from Full Plans Completion Certificates via reference 23/5036/DOMFP and 23/5036/DOMFP as C3 dwellings, providing a planning history of “operational development” in accordance with the legal definition of ‘development’ provided in section 55(1) of the Town and Country Planning Act 1990 (as amended) (the Act) and are therefore afforded statutory protection as such, under the related provisions of the 1990 Act.

May 2026

**© Simon Cheshire Planning Ltd
BA(Hons) DipTP MRTPI**

Introduction

The purpose of this application is to demonstrate on the balance of probabilities that under Section 191 of the Town & Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) the associated planning history with the validation of application 22/00061/P3CQ by Hinckley & Bosworth Borough Council provides a planning history of “operational development” in accordance with the legal definition of ‘development’ provided in section 55(1) of the Town and Country Planning Act 1990 (as amended) (the Act) and the development is therefore afforded statutory protection as such, under the related provisions of the 1990 Act.

The legal definition of ‘development’ provided in section 55(1) of the Town and Country Planning Act 1990 (as amended) (the Act) states:

“development” means the carrying out of building, engineering, mining or other operations in, on, or under land, or the making of any material change in the use of any buildings or other land.

Planning considerations:

Section 191 of the Town & Country Planning act 1991 specifies that a Certificate of lawfulness of existing use or development can be issued for the following purposes:

(1) 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.

(2) For the purposes of this Act uses and operations are lawful at any time if—

- (a) no enforcement action may then 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 then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

- (a) the time for taking enforcement action in respect of the failure has then expired; and
- (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall:

- (a) specify the land to which it relates;
- (b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
- (c) give the reasons for determining the use, operations or other matter to be lawful; and
- (d) specify the date of the application for the certificate.

Evidence

The CLU application is supported by the validation of application 22/00061/P3CQ and the associated documents contained in Appendix 1.

Appendix 2 includes the letter from Chris Brown dated 24 May 2022 stating:

"Please accept this letter in lieu of a formal decision notice. As the determination deadline of 56 days has now passed, along with the agreed extension of time I confirm that you now have deemed consent to carry out the proposed works within the scope of permitted development.

We will not be issuing a formal decision letter as the application was not determined."

Appendix 3 includes the Full Plans Completion Certificates associated with Plot 1 Great Meadow Barn and Plot 2 Sutton View, Dadlington Lane, Stapleton, LE9 8JL via references 23/5036/DOMFP and 23/5036/DOMFP.

Based on general planning principles and guidance associated with the NPPF and NPPG, the provision related to the "duty to share" states, the LPA is entitled to obtain their own evidence to assist with determining an application, however any evidence the LPA obtains itself, should be shared with the applicant and the applicant must be given a chance to comment on any undisclosed evidence to date prior to determination.

Furthermore, **F W Gabbitts v SSE and Newham LBC [1985] JPL 630**) established that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or 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".

Conclusion

Reference to the LPA planning history of the site provides an undisputed base timeline via the validation of application 22/00061/P3CQ and the letter from Chris Brown dated 24th May 2022. A Certificate of Lawful Development (CLD) following deemed Class Q consent is a legal document confirming that the conversion of the agricultural building into two dwellings is lawful and is usually obtained when the Local Planning Authority (LPA) failed to decide on a "Prior Approval" application within the 56-day statutory timeframe, as in this particular instance.

While deemed consent is a form of approval, an LDC provides legal certainty and there is no suggestion the applicant(s) have taken any positive steps to disguise the subject operational C3 development of two dwellings, or any other measures that would warrant forfeiting the statutory protection afforded by the 1990 Act, and as such a Certificate of Lawfulness can be issued on this basis.