



Land adjacent to 87 Barton Lane
Nailstone
CV13 0PY

PLANNING STATEMENT

Project: Application for a Certificate of Lawfulness of Existing Use or Development for the existing use of the building and associated operational land as a commercial workshop, with ancillary storage, office/administration and parking

Client: ROM Developments

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APPENDICES

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- Appendix 2: Site Survey Photographs
- Appendix 3: Historic Business Accounts
- Appendix 4: Business evidence and Statutory Declaration from Mr Richard Atkinson
- Appendix 5: Title Information
- Appendix 6: Planning History and Background Documents

1. INTRODUCTION

- 1.1. This Planning Statement has been prepared in support of an application under section 191 of the Town and Country Planning Act 1990 for a Certificate of Lawfulness of Existing Use or Development.
- 1.2. The application seeks confirmation that the existing use of the building and associated operational land shown edged red on the submitted site location plan is lawful. The use sought to be certified is:

Existing use of the building and associated operational land as a commercial workshop, with ancillary storage, office/administration, parking and access.

- 1.3. The application is supported by a detailed evidence pack. The evidence demonstrates, on the balance of probability, that the building has been used for a commercial workshop use for a period substantially exceeding 10 years. The associated land within the application red line has been used in connection with that commercial workshop use for operational purposes, including access, parking, loading, and incidental external activities directly associated with the workshop.
- 1.4. This application does not seek planning permission. It does not invite a planning judgement on the merits of the use, the location of the site, the character of the area, highway sustainability, countryside policy, design, or any other development management consideration. The sole question for the local planning authority is whether, on the evidence submitted, the existing use is lawful for planning purposes.
- 1.5. The evidence submitted with this application is factual and consistent. It confirms the long-standing commercial nature of the building, its use by a building contractor business, its physical and functional character as a workshop, and the continued relationship between the building and the immediately associated operational land.

2. THE APPLICATION SITE

- 2.1. The application site comprises the building and the immediately associated operational land shown edged red on the submitted site location plan.
- 2.2. The red line includes only the building and the land which is necessary to support the workshop use, including the immediately associated access, parking and

operational area. It does not extend across the wider title and does not seek to regularise any land outside the submitted red line.

- 2.3. The application is therefore not being made on the basis that the whole wider landholding has been in commercial use. The certificate sought is limited to the workshop building and the land directly and functionally associated with that use.
- 2.4. The submitted existing floor plan identifies the building as a “Workshop”. That description accords with the applicant’s case and with the historic business evidence submitted with this application. It identifies the building in clear and direct terms as a workshop.
- 2.5. The existing elevation drawings and site photographs show a long-established, functional building of utilitarian character. The physical form and appearance of the building are consistent with a workshop use and with the type of building that would be expected to serve a builders’ and contractors’ business.

3. DESCRIPTION OF THE EXISTING USE

- 3.1. The certificate seeks to confirm the lawfulness of the commercial workshop use described above. The use is characterised as a commercial workshop use. Where it is necessary to consider the use by reference to the Use Classes Order, the use is most appropriately understood as a Class B2 general industrial/workshop use. However, the certificate description is framed by reference to the actual use evidenced on the site rather than by use class alone.
- 3.2. This approach is appropriate because a certificate should describe what is lawful on the evidence. The evidence demonstrates a commercial workshop use associated with a builders’ and contractors’ business. The storage, office/administration, parking and access elements are not separate planning uses. They are usual ancillary components of the commercial workshop use.
- 3.3. A commercial workshop cannot reasonably operate without some associated storage, administration, parking, loading/unloading and access. Those elements are therefore included within the scope of the certificate.

4. LEGAL FRAMEWORK

- 4.1. Section 191 of the Town and Country Planning Act 1990 allows an application to be made to determine whether any existing use of buildings or other land is lawful. A use is lawful if no enforcement action may be taken in respect of it.
- 4.2. For a material change of use of land or buildings, the relevant enforcement period is 10 years. Where a use has continued for the required period, it becomes immune from enforcement and is lawful for planning purposes.
- 4.3. The test is the balance of probability. It is not necessary for the applicant to prove the case beyond reasonable doubt. The local planning authority must consider whether the evidence, taken as a whole, demonstrates that the claimed use has subsisted for the required period.
- 4.4. The planning merits of the use are not relevant to the determination of this application. The local planning authority is not being asked to consider whether the use would be acceptable as a new planning application. It is being asked to determine whether the existing use is lawful on the evidence.

5. EVIDENCE SUBMITTED

- 5.1. The application is supported by a comprehensive evidence pack, grouped as follows:
 - **Appendix 1:** Existing building plans;
 - **Appendix 2:** Site survey photographs;
 - **Appendix 3:** Historic business accounts for H & R Atkinson / H & R Atkinson Builders & Contractors;
 - **Appendix 4:** Business evidence and Statutory Declaration from Mr Richard Atkinson;
 - **Appendix 5:** Title information; and
 - **Appendix 6:** Planning history and background documents relating to the refused residential scheme.
- 5.2. The historic accounts at Appendix 3 provide formal documentary evidence of the commercial business. The plans and photographs at Appendices 1 and 2 support the physical and functional identity of the building as a workshop. The business evidence and Statutory Declaration from Mr Richard Atkinson at Appendix 4 explain the historic use of the building and associated operational land, including the

workshop, yard, office, working pit, machinery, hardstanding, vehicles, deliveries and associated operational activity. The title information and planning history documents at Appendices 5 and 6 provide background context only and are not relied upon as the primary proof of the commercial use.

- 5.3. The evidence should be considered as a whole. It is not necessary for every individual document to prove every element of the case. The correct approach is to consider whether the evidence demonstrates, on the balance of probability, that the building and associated operational land have been used as a commercial workshop for a period substantially exceeding 10 years.

6. ASSESSMENT

- 6.1. The evidence submitted with the application should be considered as a whole. It is not necessary for every individual document to prove every element of the case. The correct approach is to assess whether the evidence, taken cumulatively, demonstrates on the balance of probability that the building and associated operational land have been used as a commercial workshop for a period substantially exceeding 10 years.
- 6.2. The evidence is consistent across a number of sources. The historic accounts confirm the existence of a commercial building contractor business and include a specific reference to workshop-related business overheads. The Statutory Declaration from Mr Richard Atkinson explains the origin and use of the building and yard. The existing drawings identify and show the building as a workshop. The site photographs show a functional building consistent with that use. The business information and receipts support the commercial nature of the operation. The title and previous planning documents provide background context but are not relied upon as the primary evidence of the lawful use.

Nature of the use

- 6.3. The evidence demonstrates that the building has historically been used in connection with H & R Atkinson / H & R Atkinson Builders & Contractors, a commercial building and contracting business.

- 6.4. The historic accounts are central to this assessment. The available accounts include 1991, 1994, 1995, 1996, 1997, 1999 and 2000. They provide formal documentary evidence of a commercial business operating over a significant period. The accounts identify H & R Atkinson, and later H & R Atkinson Builders & Contractors, as an active business rather than a private or domestic activity.
- 6.5. The 1991 accounts are particularly important because they include expenditure consistent with an active trading business, including wages, motor expenses, telephone, repairs and renewals, insurance, bank charges and depreciation. They also include a direct reference to "Workshop Rates, Light & Heat". That entry is highly significant. It is a specific workshop-related business overhead recorded in the formal accounts of the business and directly supports the case that the business occupied and used workshop premises.
- 6.6. The later accounts identify the business as H & R Atkinson Builders & Contractors. That description is consistent with the claimed use. A building and contracting business would ordinarily require workshop space for the storage, preparation, repair and maintenance of tools, equipment, machinery and materials, together with associated administration, parking, and loading.
- 6.7. The accounts should be afforded significant weight. They are formal accounting documents prepared in connection with the business. They were not created for the purpose of this certificate application. They are therefore contemporaneous business records and provide strong independent support for the commercial nature of the use.
- 6.8. The Statutory Declaration supports and explains the documentary evidence. It confirms that the land was acquired for the purpose of erecting a workshop and builder's yard to support the expansion of H & R Atkinson Builders and Contractors. It explains that the workshop was erected around 1970-1972 and that the building and associated yard area were used in connection with the building contractor business.
- 6.9. The Statutory Declaration refers to the building containing a working pit for the maintenance of vehicles, a small, enclosed office, woodworking machinery, a joiner's bench, building materials and other items associated with the business. It also refers to hardstanding, a fuelling area/diesel tank, deliveries of building materials and the

operational use of the land around the building. Those details are directly consistent with the claimed use as a commercial workshop with ancillary storage, office/administration, parking, and access.

6.10. The floor plan, which was submitted as part of the previous application, provides further support, as it identifies the building as “Workshop”. It reflects the functional identity of the building and accords with the historic accounts and Statutory Declaration from Mr Richard Atkinson.

6.11. The existing elevations and site photographs also support the claimed use. They show a long-established, functional building, which is physically consistent with workshop use and with the type of building that would be expected to serve a builders’ and contractors’ business.

6.12. The business information and repair receipts provide additional support. They are consistent with the accounts and Statutory Declaration and reinforce the commercial nature of the operation. They support the conclusion that the use was not a hobby, casual domestic activity, agricultural use, domestic outbuilding use, or incidental private storage, but part of an established commercial workshop operation.

6.13. Taken together, the evidence points clearly to a commercial workshop use.

Extent of the use

6.14. The certificate application relates to the building and its associated operational land only. The application red line has been drawn to include the land directly and functionally associated with the workshop use, including the immediately associated access, parking, and operational area.

6.15. This is a proportionate and evidence-led approach. The application does not seek to regularise the wider title as a commercial yard. It does not rely on the whole wider landholding being in commercial use. It is confined to the building and the operational land necessary to the workshop use, as shown edged red on the submitted site location plan.

6.16. The evidence supports the inclusion of land around the building within the application site. The Statutory Declaration refers to hardstanding, vehicles, deliveries, a fuelling area/diesel tank, a working pit and operational activity

associated with the building contractor business. Those activities are consistent with the use of land around the building for access, parking, loading, unloading, and the incidental movement and handling of tools, equipment and materials.

- 6.17. It would not be representative of the actual use to confine the lawful use to the internal footprint of the building. A commercial workshop of this nature could not reasonably operate without associated external space for access, parking, loading, and the handling of materials and equipment. Those activities are not separate planning uses. They are ordinary ancillary components of the workshop use.
- 6.18. The inclusion of ancillary office/administration and storage is also justified. The Statutory Declaration refers to a small, enclosed office within the workshop, and the historic accounts include business expenses consistent with a functioning commercial operation. A builders' and contractors' workshop would naturally involve some office/administration for records, telephone calls, invoicing, ordering, arrangements with clients and suppliers, and the management of jobs and materials. Storage is similarly inherent in a workshop use of this nature.
- 6.19. The red line has therefore been drawn to reflect the operational reality of the established use. It includes the building and its immediate operational land, but does not go beyond what is required or evidenced.

Continuity of the use

- 6.20. The evidence demonstrates that the commercial workshop use has existed for a period substantially exceeding 10 years.
- 6.21. The Statutory Declaration places the erection and use of the workshop in the early 1970s. It explains that the building was erected to support the expansion of H & R Atkinson Builders and Contractors and was used as part of that business. The formal accounts then provide documentary evidence of the commercial business use from at least the early 1990s.
- 6.22. The 1991 accounts are particularly important because they include the specific entry for "Workshop Rates, Light & Heat". That entry supports not only the existence of a workshop, but the use of workshop premises as part of the commercial business. The later accounts for 1994, 1995, 1996, 1997, 1999 and 2000 continue to evidence the commercial business over subsequent years.

- 6.23. The evidence does not need to prove every individual day of use. A lawful development certificate application is determined on the evidence as a whole. The question is whether, on the balance of probability, the commercial workshop use was established and continued for the relevant period. The available accounts, Statutory Declaration, plans, business documents and physical evidence are consistent with a long-standing commercial workshop use.
- 6.24. Where the Statutory Declaration refers to the business reducing or ceasing active trading at a particular point, this does not undermine the lawful use case. A reduction in activity or intensity does not necessarily amount to a material change of use or abandonment. The relevant question is whether the building and associated operational land ceased to be used for the workshop purpose, were abandoned, or were materially changed to another use.
- 6.25. The evidence demonstrates that the building and associated operational land retained their workshop function and were not converted to an alternative lawful use. Business assets, tools, materials, equipment and workshop-related items remained associated with the building. The existing floor plan continues to identify the building as a workshop, and the physical character of the building remains consistent with that use.
- 6.26. The essential character of the use has therefore remained that of a commercial workshop with ancillary storage, office/administration, parking, and access. On the evidence available, the use has existed for a period substantially exceeding the 10-year enforcement period.

Balance of probability

- 6.27. The evidence satisfies the balance of probability test. The strongest evidence comprises the formal historic accounts, the direct reference to "Workshop Rates, Light & Heat", the later accounts identifying H & R Atkinson Builders & Contractors, the existing plan labelling the building as "Workshop", and the Statutory Declaration explaining the workshop, office, working pit, machinery, hardstanding, vehicles, deliveries and associated operational use.
- 6.28. There is no alternative explanation for this evidence. The accounts are not consistent with a purely domestic use of the building. The workshop-related account entry is

not consistent with the building being merely part of a domestic garden or incidental household storage. The business description “Builders & Contractors” is consistent with the requirement for a commercial workshop. The Statutory Declaration explains the physical and operational use of the building and yard. The existing plans, elevations and photographs accord with that conclusion.

- 6.29. The title information and previous planning documents do not determine the lawful use, but they provide useful background context. The previous refusal related to a proposed residential redevelopment and did not determine the lawful use of the existing building or associated operational land. The application asks a different legal question and must be determined on the evidence of existing lawful use.
- 6.30. The application does not seek to claim a wider commercial use across the whole title. It seeks a certificate only for the building and associated operational land shown edged red on the submitted site location plan. That careful limitation strengthens the credibility of the application because it aligns the certificate sought with the evidence available.
- 6.31. The evidence is consistent and sufficient to demonstrate, on the balance of probability, that the building and associated operational land have been used as a commercial workshop for a period substantially exceeding 10 years.
- 6.32. A Certificate of Lawfulness of Existing Use or Development should therefore be granted.

7. OTHER MATTERS

- 7.1. It is acknowledged that planning permission was previously refused for a residential redevelopment of the wider landholding. That proposal related to a different form of development and was determined on planning merits, including matters relating to the location of new residential development, character and appearance, countryside policy and transport sustainability.
- 7.2. Those matters are not relevant to the determination of this application. This application does not seek planning permission for residential development, demolition, new built form, or any change to be assessed against the development plan. It seeks a Certificate of Lawfulness of Existing Use or Development for the

existing use of the building and associated operational land as a commercial workshop.

- 7.3. The previous refusal did not determine the lawful use of the existing building or associated operational land. The question in this application is a separate legal and evidential question: whether, on the balance of probability, the existing commercial workshop use has subsisted for the relevant period and is therefore lawful.
- 7.4. The application therefore seeks a certificate only for the building and the associated operational land necessary to the established commercial workshop use.

8. CONCLUSION

- 8.1. This application is supported by clear and compelling evidence. It relates only to the building and associated operational land shown edged red on the submitted site location plan. It does not seek to regularise the wider title or any land beyond the area necessary to the established commercial workshop use.
- 8.2. The evidence demonstrates, on the balance of probability, that the building has been used in connection with a commercial building and contracting business for a period substantially exceeding 10 years. The historic accounts, including the 1991 reference to "Workshop Rates, Light & Heat" and the later accounts identifying H & R Atkinson Builders & Contractors, are highly relevant. That evidence is supported by the existing floor plan, which was accepted by the LPA during the previous submission, which labels the building as "Workshop", together with the existing elevations, site photographs, business information, repair receipts and Statutory Declaration from Mr Richard Atkinson.
- 8.3. The associated operational land is included within the site location plan. A commercial workshop of this nature requires immediately associated land for access, parking, loading, unloading and the incidental movement and handling of tools, equipment and materials. The evidence supports that operational relationship, and the red line has been tightly drawn to reflect it.
- 8.4. The planning merits of the use are not relevant to the determination of this application. The previous refusal for residential redevelopment related to a different proposal and did not determine the lawful use of the existing building or its

associated operational land. The only question is whether the existing use is lawful on the evidence.

- 8.5. For the reasons set out in this statement, the evidence demonstrates that the building and associated operational land have been used as a commercial workshop, with ancillary storage, office/administration, parking and access, for a period substantially exceeding the 10-year enforcement period.
- 8.6. The applicant respectfully requests that the Certificate of Lawfulness confirms the existing use of the building and associated operational land shown edged red on the submitted plan as a commercial workshop, with ancillary storage, office/administration, parking and access. The use is therefore lawful and a Certificate of Lawfulness of Existing Use or Development should be granted.