BARNSLEY
Metropolitan Borough Council

SPLIT DECISION (Partial Grant and Partial Refusal of Certificate of Lawful Use)

TOWN AND COUNTRY PLANNING ACT 1990:
SECTIONS 191 AND 192 (as amended by section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995:
ARTICLE 24

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT UNDER SECTION 191

APPLICATION NO. 2010/0258

To Admiral Taverns

Adams Holmes Associates
Millhouse
Elmsfield
Worcester Road
Chipping Norton
Oxfordshire
OX7 5XS

DESCRIPTION Certificate of Lawfulness- Use as a public house with ancillary parking and seating areas. (A4 use)

LOCATION Sir Georges Arms, Hough Lane, Wombwell, Barnsley, S Yorks

DESCRIPTION **Certificate of Lawfulness- Use as a public house with ancillary parking and seating areas. (A4 use)**
LOCATION Sir Georges Arms, Hough Lane, Wombwell, Barnsley, S Yorks

Barnsley Metropolitan Borough Council hereby certify that on 3rd March 2010 the use described in the First Schedule to this certificate in respect of the land specified in the second schedule to this certificate and edged **red** on the plan attached to this certificate

Stephen Moralee

The grant of this consent does not constitute or imply permission, approval or consent by the Local Authority for any other purpose.

Signed
Assistant Director, Planning and Transportation

Dated 10 May 2010

Planning and Transportation Service **Telephone: 01226 - 772000**
PO Box 604, Barnsley, S70 9FE **Fax: 01226 - 772591**

was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

1. The evidence submitted in respect of the land edged red is sufficient and on the balance of probabilities there is no contrary evidence that an A4 use has occurred for more than 10 years

2. The evidence submitted in respect of the land edged **blue** on the plan attached to this certificate ('the beer garden land') is insufficient; on the balance of probabilities. It has not been demonstrated that the land edged in blue has been used as an A4 use, or ancillary to an A4 use. It has not been demonstrated that the land edged in blue forms part of the same planning unit as the land edged in red. There is no evidence submitted that the land has been in the same ownership over the 10 year period. Even if the land were in the same ownership there is evidence that the land edged in blue has been physically separate from the land edged in red, has only very recently been used as a beer garden, and there is some indications that the land edged in blue has been previously used as access to the allotments to the rear of the pub and as a residential garden.

Signed Stephen Moralee

(Council's authorised officer)

On behalf of

Barnsley MBC

Date 10/05/2010

Second Schedule

Sir Georges Arms, Hough Lane, Wombwell, Barnsley, South Yorkshire

Notes:

1 This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990 (as amended).

2 It certifies that the use specified in the First Schedule taking place on the land described in the Second Schedule was lawful, on the specified date and, thus, was not liable to enforcement action under section 172 of the 1990 Act on that date.

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3 This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

4 The effect of the certificate is also qualified by the proviso in section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

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