

Planning & Building Control Service
Development Management
Westgate Plaza
PO Box 634
Barnsley
S70 9GG
FAO Hannah Andrew

Dear Madam

LAND ADJACENT AT WINDHILL LANE, STAINCROSS: CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT

Please find enclosed on behalf of our client Mr John Sanderson, an application under Section 191 of the Town and Country Planning Act 1990 for a Certificate of Lawfulness of Existing Development (CLUED) at land at Windhill Lane, Staincross.

The CLUED application seeks confirmation that the existing structures on the site are lawful and the site is previously developed land.

As part of the application please find enclosed the following:

- Signed and dated forms and certificates;
- Enclosure 1: Site Location Plan;
- Enclosure 2: Historic and Current Site Photos; and
- Enclosure 3: Sworn Statutory Declaration.

Our client has paid the application fee of £462 through the Planning Portal in respect of the fee.

The Site

The site is located on the northern side of Windhill Lane, to the north east of the village of Darton and to the north west of Staincross. To the south of the site are a number of two and single storey dwellings, to the east is a field used for grazing horses, to the north east is a row of houses which front onto Warren Lane. To the west are the grounds of a large dwelling known as 'Colton' and to the north west is the house itself. To the north of the site is open countryside to the rear of the gardens to the dwellings to Warren Lane.

The site slopes upwards from south east to north west, and the land behind the site slopes up further. As such the site is not visible in views from the north and west.

The site contains a number of buildings which are of permanent construction. These are accessed by an existing track from Windhill Lane. The buildings surrounding this have been on the site since the late 1980s. Prior to my client purchasing the site, the buildings and land surrounding this were used for the repair and storage of motor engines and before this the buildings and land were used for the stabling and grazing of horses. The condition of the site in 2008 is shown in Figure 1 below in an image taken from Google Earth Pro.



Figure 1: Site in 2008 (taken from Google Earth Pro)

The site is not within a Conservation Area and there are no listed buildings on or within close proximity to the site. There are no significant trees on the site and there are no issues of flooding. The site has no recent planning history records.

Within the Barnsley Proposals Map (2019) the site falls within the Green Belt.

Pre-Application Advice

In a letter from the Council regarding the site, dated 3rd June 2019, the Officer advised the following:

“...The NPPF is clear that agricultural buildings and former minerals working sites cannot be said to be brownfield. However, stables for horses do not usually constitute as an agricultural use and the repair of

motor vehicles is clearly not agricultural, therefore if it can be demonstrated that the site has established use as either, we would accept that the property was brownfield. This would be best achieved through a certificate of lawful use application and whilst the affidavit provided with your email is useful I would recommend further evidence is provided”.

The Evidence

Evidence is provided, both within this covering letter and the accompanying material, to demonstrate that:

- The buildings on site have been in place in excess of 4 years and are lawful; and
- That the site is previously developed land, in accordance with the definition within the NPPF.

The Planning Practice Guidance (Reference ID 17c-006-20140306) states that *“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any 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.”*

Annex 2 of the NPPF outlines a definition of ‘Previously Developed Land’ which states that *“Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”*

The site is considered to be Previously Developed Land for the following reasons:

- The site is occupied by a number of permanent structures. These are largely of wooden and metal construction on a concrete base and have been present on site for in excess of 4 years, with some being on site for at least 25 years. The historic photographs confirm that the buildings have remained in place on site and a comparison of the more recent photographs shows that the footprint of the buildings has remained unchanged for in excess of the previous 4 years.
- There is also land around this which forms the curtilage to this use, and this is clear from the historic photograph of the site included at Figure 1, as well as the further historic photos submitted with the application. Whilst the site has been used for motor vehicle repairs, the land has clearly been used in association with this for the storage of vehicles and vehicle parts.
- The buildings have not been used for agricultural or forestry purposes and the land is not suitable for agricultural use, as it is poor quality grade land resulting from its historic relationship with New Speedwell Colliery.
- The land has been used for other purposes since this historic relationship with New Speedwell Colliery. Firstly as a stables and grazing of horses for a period in excess of 10 years, and then for the repair of motor vehicles again for a period in excess of 10 years.
- Since the use of the site for vehicle repairs ceased, there has been no alternative use of the site.
- It is therefore considered that the entire site falls within the definition of Previously Developed Land as outlined at Annex 2 of the NPPF.

Enclosed with this submission is a statutory declaration prepared by Robert Clayton, a former owner of the site, dated 22nd August 2019. Within the declaration Robert confirms that in around 1988 the Taylor family built stables on the land for equestrian purposes and that this use continued on the site for in excess of 10 years. In 2002 the Taylor family rented the land to Graeme Bell, who built additional buildings on the land to run a small part time business that repaired engines and other mechanical repairs.

Mr Clayton also confirms that at no point was the site used for agricultural purposes as the quality of the land would not have been sufficient to be used for this purpose.

The lawful use of the land was therefore established as equestrian, which falls within the definition of Previously Developed Land¹ and this use continued in excess of 10 years. The subsequent use of the land for motor repairs and other mechanical repairs continued for a period of 10 years from around 2002 until my client, Mr Sanderson purchased the land in 2012.

It is therefore clear that the initial and subsequent uses of the site have not altered the position that the land falls within the definition of Previously Developed Land as outlined at Annex 2 of the NPPF.

Summary

In summary, it is considered that the site is previously developed land as there is sufficient evidence provided within this submission to demonstrate that the buildings have been on site in excess of 4 years, and are therefore lawful, and had an established use, firstly for equestrian purposes and secondly for mechanical repairs. The land and buildings can therefore be concluded to be previously developed land.

We trust that the CLUED will be issued in due course, however should you have any queries regarding the submission or require any further information please do not hesitate to contact me on the contact details at the top of the letter.

Yours faithfully



Caroline McIntyre MRTPI

¹ See enclosed decision APP/Y0435/W/17/3178790