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SUPPORTING STATEMENT

APPLICATION FOR LAWFUL DEVELOPMENT CERTIFICATE

20 CARR HEAD ROAD, HOWBROOK, SHEFFIELD, S35 7HG

On behalf of Mr & Mrs Alexander

October 2016

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1.0 INTRODUCTION

- 1.1 We act for Mr & Mrs Alexander, the owners of 20 Carr Head Road, Howbrook, Sheffield. We have been instructed to submit an application for a Lawful Development Certificate to Barnsley Council to establish the lawfulness of our client's occupation of the property in breach of an agricultural occupancy condition. The property is identified on the submitted location plan.
- 1.2 It is considered that the evidence referred to within and accompanying this statement demonstrates 'on the balance of probabilities' that the occupation of the property in breach of the occupancy condition is now lawful.

2.0 THE APPLICATION

- 2.1 We apply under Section 191 of the Town and Country Planning Act for a lawful development certificate to confirm that our client's occupation of 20 Carr Head Road, in breach of an agricultural occupancy condition, is now lawful for planning purposes. The legislation provides a means by which a statutory document can be obtained confirming that the use described within it is lawful for planning control purposes. Once granted the Certificate remains valid in perpetuity for the use or development described within it, on the land to which it relates.
- 2.2 In the case of a breach of planning control through the breach of condition, as with this application, the relevant test is whether planning control has been breached for a continuous period of more than 10 years from the date of the application. The application for a lawful development certificate must be accompanied by sufficient factual information or evidence for a local planning authority to decide the application. Department of Environment Circular 17/92 established that the relevant test of evidence in such matters is "*the balance of probability*".
- 2.3 The agricultural occupancy condition is attached to the original planning permission for the property granted on 18 March 1965. It states:

"The occupation of the dwelling shall be limited to persons employed, or last employed, locally in agriculture, as defined by Section 221 of the Town and Country Planning Act 1962, or in forestry, and the dependents of such person".

3.0 BACKGROUND

- 3.1 Our clients purchased the application site in 2000. At the time of the purchase they provided incorrect information advising that Mr Alexander had worked occasionally on a local farm. This was provided by the farmer at the request of Mr Alexander. The information was false.
- 3.2 Mr and Mrs Alexander had actually just retired from owning and running their own dog kennels, Rainbow Kennels of Woodhead Road, Wortley, Sheffield. The business was sold in June 2000 and they have not worked since that date. The kennels was not an agricultural business.
- 3.3 Prior to owning and working in the kennels, Mr & Mrs Alexander have had various businesses including working on the railway lines, a pub, chip shop and skip hire business. None of their businesses have involved any kind of agricultural work.
- 3.4 It is appreciated that Mr & Mrs Alexander have recently provided information to the Council advising that at the time of the purchase Mr Alexander helped out occasionally at a local farm. This information was false. Our clients apologise for providing incorrect information. In the absence of professional advice they felt that they should continue the old falsehood of Mr Alexander occasionally working on a farm as they did not know what else to do. This information was and remains incorrect.

- 3.5 At no point during their working lives has Mr or Mrs Alexander been employed in agriculture in any capacity, casual, temporary or permanently. The following evidence demonstrates this.

4.0 EVIDENCE

- 4.1 We provide evidence to demonstrate that on the balance of probabilities Mr & Mrs Alexander have been occupying 20 Carr Head Road in breach of the agricultural occupancy condition for a continuous period of more than ten years. For this reason, the use of the building is lawful and immune from enforcement action.
- 4.2 The agricultural occupancy condition states that occupants should be “*persons employed, or last employed, locally in agriculture*”. The phrase “*employed in agriculture*” has been debated during a number of appeals. Inspectors decisions have determined that the phrase means ‘doing something with the intention of a financially beneficial outcome, such as paid work’, ‘substantial employment’, ‘some work of substance had to be done’. This suggests that to be employed in agriculture means to provide substantial work in return for payment.
- 4.3 We can demonstrate that our client, Mr Alexander, has never been employed in agriculture nor received any income from such work. We enclose at Appendix 01 a Statutory Declaration from Mr A Hardman, the son of the farmer who provided the initial false information. Mr Hardman Senior used to own Hall Field Head Farm and provided the initial information advising that Mr Alexander worked at the farm. Unfortunately Mr Hardman Senior has passed away however his son, Mr A Hardman, is able to confirm that Mr Alexander has never worked at the farm. Mr A Hardman was brought up at the farm, worked there part time during school and college years and full time from 1996 in partnership with his father. From 2008 he has been the sole owner of the farm. He confirms that at no time has Mr Alexander worked in any capacity on the farm.
- 4.4 We also enclose at Appendix 02 Statutory Declarations from Mr and Mrs Alexander. These confirm that they purchased the property in 2000 and provided incorrect information at this time to suggest that they satisfied the agricultural occupancy condition. They also confirm that they have never worked in any capacity in agriculture and have never derived an income from agriculture.
- 4.5 At Appendix 03, we provide a Statutory Declaration from Mr S Fish. Mr Fish is a retired accountant and prepared the accounts for Mr & Mrs Alexander’s business, Rainbow Kennels for ten years. He confirms that the accounts prepared for Mr & Mrs Alexander did not include any income derived from agriculture.

5.0 CONCLUSION

- 5.1 Mr & Mrs Alexander have lived at 20 Carr Head Road since 2000 and they have clearly occupied the property continuously in excess of ten years. It was unfortunate that our clients provided false information to purchase the property and also to reiterate this to the Council recently. However, our clients admit that this information was false. This was not done in malice, more ignorance of any implications.
- 5.2 The evidence provided confirms that Mr Alexander has never worked in agriculture nor derived an income from any such activity. We therefore conclude, on the balance of probabilities, that there is sufficient evidence to confirm that their occupation of the property in breach of the agricultural occupancy condition is now lawful and that a certificate can be issued.

CARTER JONAS LLP

APPENDIX 01

STATUTORY DECLARATION FROM MR A HARDMAN

STATUTORY DECLARATION

BY ANDREW GEOFFREY HARDMAN

20 CARR HEAD ROAD, HOWBROOK, SHEFFIELD, S35 7HG

This is a Statutory Declaration by Andrew Geoffrey Hardman of Hall Field Head Farm, Woodhead Road, Wortley, Sheffield, S35 7DS in respect and in support of an application for a Certificate of Lawful Development made to Barnsley Council.

I, Andrew Geoffrey Hardman, do solemnly and sincerely declare that:-

1. I am the owner of Hall Field Head Farm, Woodhead Road, Wortley, Sheffield, S35 7DS.
2. I was brought up at Hall Field Head Farm and have lived there for the majority of my life. My father, Albert Graham Hardman, was the previous owner and the ownership was passed to me in 2008.
3. I have worked at Hall Field Head Farm part time during school and college. From 1996-2008 I worked full time at the farm in partnership with my father. Since 2008 I have worked full time as the owner and farm manager.
4. I can confirm that Michael Alexander has never been employed on the farm on either a casual, temporary or permanent basis.

I make this solemn declaration by virtue of the Statutory Declaration Act 1835.

DECLARED by ANDREW GEOFFREY HARDMAN

This day of 5 October 2016

at Chapelton
South Yorkshire

Signed

Andrew Hardman

Date 5.10.16

Before me a Commissioner for Oaths/Solicitor... A. H. Davies

Date 5.10.16

A. H. Davies
Solicitor
Foy's Solicitors
102-112 Burncross Road
Chapelton Sheffield S35 1TG

APPENDIX 02

STATUTORY DECLARATIONS FROM MR AND MRS ALEXANDER

STATUTORY DECLARATION

BY MICHAEL PEECH ALEXANDER

20 CARR HEAD ROAD, HOWBROOK, SHEFFIELD, S35 7HG

PEECH

This is a Statutory Declaration by Michael Alexander of 20 Carr Head Road, Howbrook, Sheffield, S35 7HG in respect and in support of an application for a Certificate of Lawful Development made to Barnsley Council.

W.P.A.
CO

I, Michael Alexander, do solemnly and sincerely declare that:-

1. I am the joint owner with my wife Helen Alexander, of 20 Carr Head Road, Howbrook, Sheffield, S35 7HG.
2. We purchased 20 Carr Head Road in 2000 and have lived there as our main residence since then. The property is identified on the plan attached to this Statutory Declaration as Exhibit MA01.
3. My wife and I were joint owners of Rainbow Kennels of Woodhead Road, Wortley, Sheffield, S35 7DA. We ran the business for ten years. This was our sole income until the business was sold and we retired in June 2000. Previous to this we have had various businesses, none of which have involved agriculture.
4. When we purchased 20 Carr Head Road, Howbrook, Sheffield, S35 7HG we were aware of the agricultural occupancy condition and provided incorrect information at that time in order to suggest that we satisfied the requirements of the condition.
5. I have never been employed in agriculture at either Hall Field Head Farm or for any other agricultural business in any capacity.

I make this solemn declaration by virtue of the Statutory Declaration Act 1835.

DECLARED by MICHAEL ALEXANDER

This day of 5th OCTOBER 2016

AT CHAPELTOWN
SOUTH YORKSHIRE

Signed Michael Alexander

Date 5/10/16

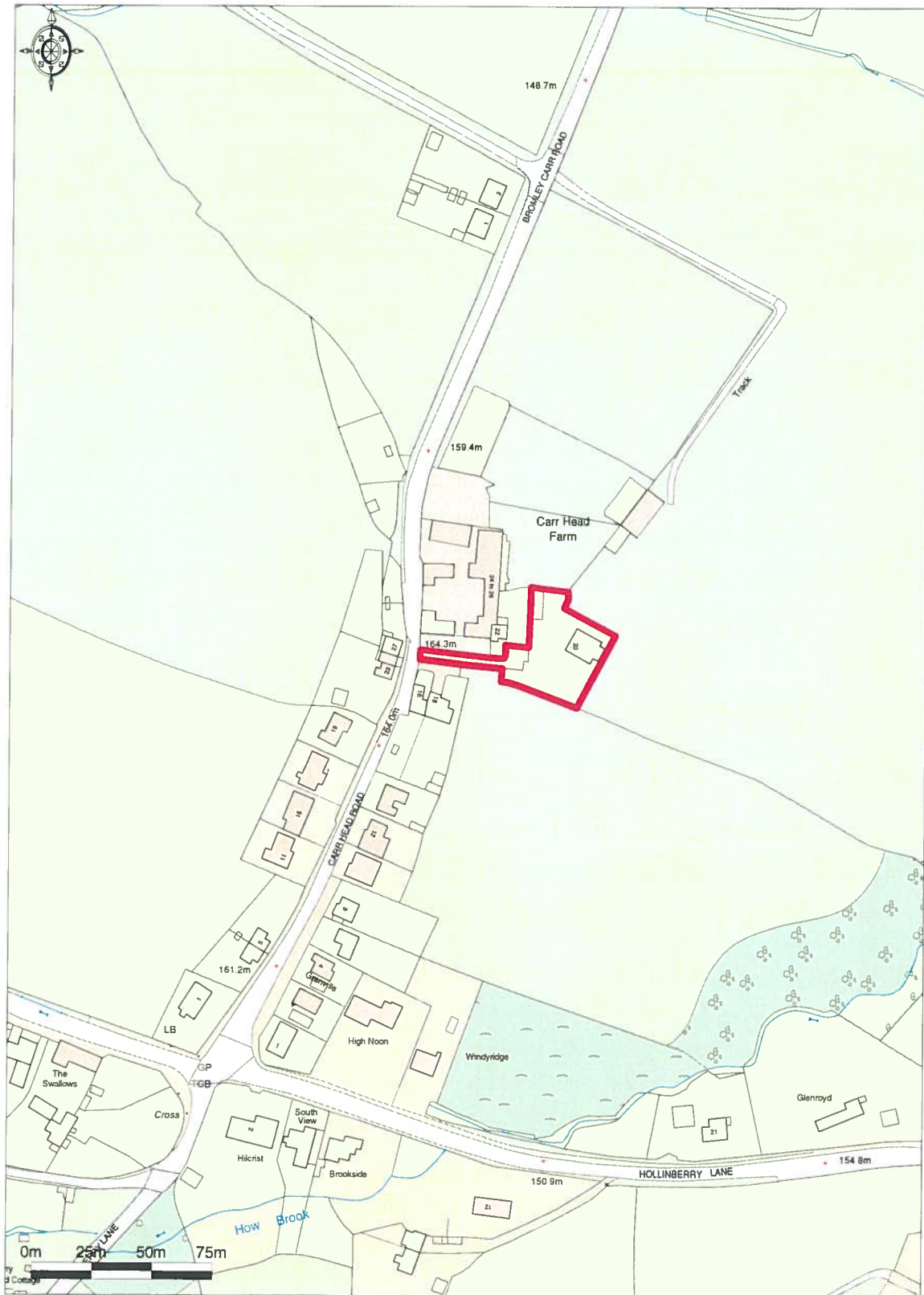
Before me a Commissioner for Oaths/Solicitor A. H. Davies

Date 5/10/16

A. H. Davies
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Foy's Solicitors
102-112 Burncross Road
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MA01
20 Carr Head Road, Howbrook, Sheffield, S35 7HG



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STATUTORY DECLARATION

BY HELEN ALEXANDER

20 CARR HEAD ROAD, HOWBROOK, SHEFFIELD, S35 7HG

This is a Statutory Declaration by Helen Alexander of 20 Carr Head Road, Howbrook, Sheffield, S35 7HG in respect and in support of an application for a Certificate of Lawful Development made to Barnsley Council.

I, Helen Alexander, do solemnly and sincerely declare that:-

1. I am the joint owner with my husband Michael Alexander, of 20 Carr Head Road, Howbrook, Sheffield, S35 7HG.
2. We purchased 20 Carr Head Road in 2000 and have lived there as our main residence since then. The property is identified on the plan attached to this Statutory Declaration as Exhibit HA01.
3. My husband and I were joint owners of Rainbow Kennels of Woodhead Road, Wortley, Sheffield, S35 7DA. We ran the business for ten years. This was our sole income until the business was sold and we retired in June 2000. Previous to this we have had various businesses, none of which have involved agriculture.
4. When we purchased 20 Carr Head Road, Howbrook, Sheffield, S35 7HG we were aware of the agricultural occupancy condition and provided incorrect information at that time in order to suggest that we satisfied the requirements of the condition.
5. My husband has never been employed in agriculture at either Hall Field Head Farm or for any other agricultural business in any capacity.

I make this solemn declaration by virtue of the Statutory Declaration Act 1835.

DECLARED by HELEN ALEXANDER

This day of 5th OCTOBER.....2016

AT CHAPELTOWN
SOUTH YORKSHIRE

.....

H. Alexander

Signed A. H. Davies

Date 5/10/16

Before me a Commissioner for Oaths/Solicitor... ANN DAVES.....

Date 5/10/16.....

A. H. Davies
Solicitor
Foy's Solicitors
112 Burncross Road
Sheffield S35 1TG

Carter Jones
Solicitor

HA01
20 Carr Head Road, Howbrook, Sheffield, S35 7HG



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APPENDIX 03

STATUTORY DECLARATION FROM MR FISH

STATUTORY DECLARATION

BY STUART ANTHONY FISH

20 CARR HEAD ROAD, HOWBROOK, SHEFFIELD, S35 7HG

This is a Statutory Declaration by Stuart Anthony Fish of 24 Flat Cliffs, Primrose Valley, Filey, YO14 9RD in respect and in support of an application for a Certificate of Lawful Development made to Barnsley Council.

I, Stuart Anthony Fish, do solemnly and sincerely declare that:-

1. I, Stuart Anthony Fish am a retired qualified accountant formerly employed by Johnson Walker, Chartered Accountants at The Masters House, 92a Arundel Street, Sheffield, A1 4RE. Previously I was a partner in Hart Shaw Chartered Accountants of 37 Moorgate Road, Rotherham S60 2AE.
2. I worked at Johnson Walker for thirteen years and retired in 2006. I was involved in the partnership of Hart Shaw Chartered Accountants for twenty one years until 1993..
3. I can confirm that I was the accountant for Michael and Helen Alexander from 1990 in respect of their business Rainbow Kennels and that I prepared their accounts throughout their time in business.. I can further confirm that Michael and Helen Alexander were the owners of Rainbow Kennels and that the kennels was their sole source of income.
4. I can confirm that the accounts related solely to income derived from Rainbow Kennels and the accounts did not include any income derived from any agricultural activity.
5. I can confirm that Rainbow Kennels ceased trading in June 2000.

I make this solemn declaration by virtue of the Statutory Declaration Act 1835.

DECLARED by STUART ANTHONY FISH

This day of 5th October 2016



Signed

Date

Before me a Commissioner for Oaths/Solicitor.....

P.J. Sansbury

Date 5th October 2016 ,

Thorpe & Co,
Filey.