PLANNING STATEMENT



June 2023	**Land adjoining 185 Chapel Street, Horningsham,** **BA12 7LU**

Application for a certificate of lawfulness for proposed change of use of the land to agricultural.

TABLE OF CONTENTS

1. INTRODUCTION 3
2. THE SITE AND PROPOSAL 3
3. LEGISLATION 5
4. EVIDENCE AND ASSESSMENT 6
5. CONCLUSION 6

1. INTRODUCTION

1.1. Context Planning Ltd have been instructed to prepare and submit this application for a certificate of lawfulness on behalf of the applicant, Simpsons Seeds Ltd.

1.2. The application seeks a Lawful Development Certificate for the proposed change of use of the land to an agricultural use, under the provisions of Section 192 (b) of the Town and Country Planning Act 1990.

2. THE SITE AND PROPOSAL

2.1. Simpsons Seeds are a mail order company selling seeds and plants they have grown from seeds in their nursery. In the spring time they grow approximately 14,000 plug plants for sale. They specialise in rare tomatoes and chillies which they grow for artisan sauces that they then sell online and at local events. They also work in conserving rare and heritage varieties of plants for the future.

2.2. They are currently operating on a site known as the 'Walled Garden nursery' which is located opposite the Walled Garden on the Longleat estate, Horningsham. They have been operating from this site since 2001, however due to the Longleat estate requesting this site back for their use, Simpsons Seeds need to relocate. They have been offered an alternative site known as the 'Old Gamekeepers Yard', which is also located in Horningsham, on Chapel Street. An extract from a site location plan for the new site can be seen below in Figure 1.

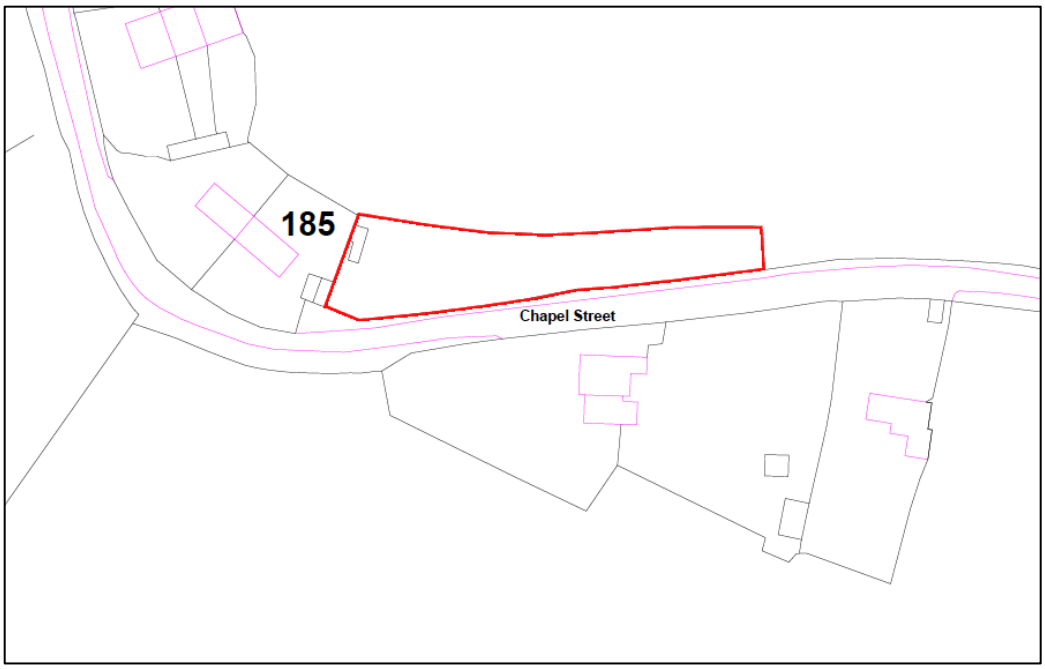

Figure 1- Extract from the Location plan of proposed new site.

2.3. As can been seen from the aerial image of the site (Figure 2) the proposed site is an area of hard standing, with one associated outbuilding.



Figure 2- Aerial image of the site.

2.4. The land was latterly used for pheasant shoot meet ups, although in recent years the land has become disused. Simpsons Seeds operate a market gardening business, this use comprises an agricultural use for planning purposes. As the use of the land is not known, but may not be agricultural, the development requires a change of use of the land, which this certificate of lawfulness seeks to ascertain would be lawful.

3. LEGISLATION

Town and Country Planning Act 1990

3.1. Section 192 of the Town and Country Planning Act 1990 makes provision for an applicant to ascertain the lawfulness of any proposed use of buildings or other land, or any operations which have been carried out in, on, over, or under land.

3.2. If the local planning authority are provided with information satisfying them that the operations in use would be lawful if instituted at the time of application, they should institute a certification to that effect. The certification 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.

3.3. Section 192 guides that; *'the lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness'.*

4. EVIDENCE AND ASSESSMENT

4.1. The proposed change relates to a change of use of the land to an agricultural use which will allow Simpsons Seeds to carry out is agricultural operations relating to their business.

4.2. S55 (2e) of the Town and Country Planning Act 1990 advises that *"the use of any land for the purposes of agriculture or forestry"* shall not be taken for the purposes of the Act to involve development of land.

4.3. Therefore, the proposed change of use of the land to agricultural would not constitute 'development' for the purposes of S55 of the Town and Country Planning Act 1990. As a result of not being deemed 'development' by this legislation, the change of use of the land does not require planning permission. Consequently, the council are respectfully requested to issue a certificate of lawfulness to deem this proposed change of use as lawful.

5. CONCLUSION

5.1. The evidence that accompanies this submission and the assessment against the relevant legislation clearly shows that the proposals do not constitute

‘development’ having regard to s55 of the Town and Country Planning Act 1990. Based on the submitted evidence, which is sufficient precise and unambiguous, a Certificate of Lawfulness should therefore be issued.

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