PLANNING STATEMENT

Application:	Certificate of Lawfulness for the use of agricultural buildings for commercial use specifically B8/B2.
Property:	Buildings to the rear of 1 West View, Stockley Lane, Stockley, Calne, Wiltshire SN11 0NP.
Client:	Mr J & Mr P Brown
Date:	September 2023
Agents:	Christopher Cary MSc MRICS FAAV

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1 INTRODUCTION

1.1 Woolley & Wallis have been instructed by Mr J & Mr P Brown to obtain a certificate of Lawfulness in relation to the B8/B2 use of the former agricultural buildings.

1.2 This Statement has been produced by Woolley & Wallis to demonstrate that the Buildings to the rear of 1 West View , Stockley Lane, Calne have been in breach of their permitted agricultural use for in excess of 10 years, and that their use as commercial specifically falling within use class B8 / B2 of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 is therefore lawful and immune from enforcement action.

1.3 This statement therefore provides evidence to support an application under Section 191 (2) of the Town and Country Planning Act 1990.

1.4 This application has been made following an investigation by Wiltshire Council and a subsequent request to regularise the current use.

2 PLANNING HISTORY

2.1 The historic permissions for the erection of the buildings as agricultural buildings are not showing on the Wiltshire Planning Explorer. However, for the avoidance of doubt the buildings in question were erected lawfully and were used as agricultural buildings before their use changed to commercial.

3 APPLICATION JUSTIFICATION

The following sections provide justification for this application:

3.1 Section 57 Section of the Town & Country Planning Act 1990 (as amended) (`the act 1990') requires that planning permission is needed for development of land. Section 55(1) of `the act 1990' confirms that `*development'* includes `*making a material change of use of any buildings or other land'*.

Section 171B(3) of the Act confirms that in cases of a material change of use, other than a change of use to a dwelling, `*no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach*'.

3.2 Section 191 (2) of the Town and County Planning Act 1990 (TCPA 1990) states that uses and operations are lawful if "*no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason*)".

3.3 The above detailed breach of planning control has occurred openly and without deliberate deception or concealment.

3.4 The question raised by this application is whether or not the buildings have been occupied in breach of their permitted agricultural use, for more than 10 years. Planning Practice Guidance 009 provides clarity on this point, stating that "planning merits are not relevant at any stage" in deciding an LDC application.

3.5 National Planning Practice Guidance Para 006 (NPPG) states that the applicant is responsible for providing sufficient evidence to support an application.

3.6 It also states that "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."

4 LOCATION

4.1 The extent of the applicant's ownership is shown below edged red. This application relates only to Unit 1 & Unit 2 as shown edged blue below.

4.1 The property is located in Stockley Village, Wiltshire two miles south of the town Calne.



5 UNIT 1 - EVIDENCE & TIMELINE

5.1 TIMELINE OF KEY DATES

DATE	Description
May 2005 – May 2015	Wiltshire Heavy Building Materials Ltd in continuous occupation (B8 / B2)
June 2015 – August 2021	DMS Recovery in continuous occupation (B8 / B2)
October 2021 – Current Day.	MR Fencing in continuous occupation (B8 / B2)

5.2 The principal source of evidence presented in support of this application is a Statutory Declarations sworn by the freehold owners being Mr P & Mr J Brown.

Please note that as there is personal data within the Statutory Declarations, these are not to be make available for public viewing and are for inspection by the planning officer only.

5.3 Within the declaration, Mr P & Mr J Brown confirm that the occupation of unit 1 has been used commercially, specifically B8/B2, continuously in excess of 10 years.

5.4 During the last 10 years, there have been three separate commercial tenants of the building being Wiltshire Heavy Building Materials Ltd, DMS Recovery and MR Fencing all of which have provided a signed letter confirming their occupation and corroborating the evidence set out within the statutory declaration.

5.5 The neighbouring dwelling house is occupied by Mrs Pauline Crane who has lived in the property for over 10 years. Pauline has provided a signed letter confirming that the three tenants have occupied the building also.

5.6 At no time over the last 10 years has the buildings use reverted back to agriculture and the commercial use has been continuous save for small void periods between tenants at which point any required landlord works have been undertaken upon the building.

5.7 Both of the afore mentioned individuals are aware that `It is an offence to make a false or misleading statement, use false or misleading documentation, or withhold any material information in order to obtain a certificate. Committing an offence can result in a fine on summary conviction, on indictment, the maximum penalty is 2 years' imprisonment or a fine, or both'.

6 UNIT 2 - EVIDENCE & TIMELINE

6.1 TIMELINE OF KEY DATES

DATE	Description
2010 – January 2023	DMS Scaffolding in continuous occupation (B8)
March 2023 – Current Day.	Mr Barker in continuous occupation (B8)

6.2 The principal source of evidence presented in support of this application again is a Statutory Declarations sworn by the freehold owners being Mr P & Mr J Brown.

6.3 Within this declarations, Mr P & Mr J Brown confirm that the occupation of Unit 2 has been used commercially, specifically B8, continuously in excess of 10 years.

6.4 During the last 10 years, there have been two separate commercial tenants of the building being DMS Scaffolding and Mr Barker. We have provided a letter signed by DMS Scaffolding confirming their occupation and bank statements showing their last rental payment and showing Mr Barkers first and recent rental payment.

6.5 At no time over the last 10 years has the buildings use reverted back to agriculture and the commercial use has been continuous save for small void periods between tenants at which point any required landlord works have been undertaken upon the building.

7 CONCLUSION

7.1 In light of the above comments and supporting evidence, we trust that you will agree that this application has more than passed the balance of probability test and you will agree that there is no ambiguity with regards to this application

7.2 If there are any points that require further clarification, I would be happy to discuss these to ensure that you determine this application positively.