

COVERING SUPPORTING STATEMENT

Application for a Lawful Development Certificate

Section 191 Town and Country Planning Act 1990

Part Field Farm
Sambourne Road
Minety
SN16 9RQ

1. Introduction

This statement has been prepared in support of an application for a Lawful Development Certificate ("LDC") under Section 191 of the Town and Country Planning Act 1990 in relation to the existing livestock sheds and associated land at Part Field Farm, Sambourne Road, Minety.

1.2

The application is supported by:

- statutory declarations;
- historical planning documentation;
- photographs;
- supporting documentary evidence; and
- other material demonstrating the historic and continuing lawful use of the Site.

1.3

The purpose of this statement is:

- to summarise the relevant planning background;
- to clarify the factual use of the buildings and land;
- to address issues arising from previous planning history; and
- to demonstrate, on the balance of probability, that the existing use is lawful.

2. The Site

2.1

The Site comprises rural land and buildings historically associated with agricultural activity.

2.2

The buildings subject to this application are rural livestock structures authorised under planning permission reference N/94/01430/S73 granted in 1994.

2.3

The Site has consistently retained its rural and agricultural character.

3. Relevant Planning History

3.1

Planning permission was granted in 1994 for development described as: "Livestock Sheds" under reference N/94/01430/S73.

3.2

Conditions attached to that permission referred to:

- agricultural use;
- use as stables for private social use or agricultural purposes; and
- retention of the land in agricultural use.

3.3

The wording of the permission and its conditions demonstrates that the authorised use contemplated:

- agricultural activity;
- rural livestock-related use; and
- private equestrian use associated with the land.

3.4

To the best of the Applicant's knowledge and belief:

- the 1994 permission has never been revoked;
- no enforcement action has taken effect extinguishing the authorised use; and
- the permission remains part of the lawful planning history of the Site.

4. Historic and Existing Use

4.1

The evidence submitted demonstrates longstanding and continuous rural use of the buildings.

4.2

The statutory declarations confirm that, over many years, the buildings have been used for purposes including:

- livestock housing;
- agricultural storage;
- the keeping of cattle and sheep;
- poultry-related activities;
- storage of feed and bedding; and
- private non-commercial equestrian purposes.

4.3

The evidence further confirms that:

- horses were associated with the land on a private basis;
- separate field shelter facilities existed;
- the buildings were not operated as a commercial livery or riding establishment; and
- the overall character of the Site remained agricultural and rural.

4.4

At no stage have the buildings been used for:

- industrial purposes;
- retail purposes;
- separate residential occupation;
- commercial equestrian enterprise; or
- unrelated commercial activity.

5. Continuity of Use

5.1

The evidence demonstrates that the use of the buildings and land has been:

- continuous;
- open and apparent;
- longstanding; and
- without material interruption.

5.2

The planning unit has remained substantially unchanged throughout the relevant period.

5.3

The buildings have continuously retained their character as rural agricultural/equestrian structures.

5.4

No evidence exists demonstrating abandonment of the authorised use of the livestock sheds.

6. Clarification of Planning History and Officer Report

6.1

Reference is made to the Officer Report relating to application reference PL/2022/00074 concerning Wrens Brook.

6.2

The Officer Report states that planning permission was granted in 2009 under reference N/09/00926/FUL for:

- a barn;
- a new stable block; and
- an open riding arena,

to be used in connection with the keeping of horses.

6.3

The Applicant understands that the barn was constructed, but that the proposed stable block referred to within the 2009 permission was never built.

6.4

The Officer Report further states that the Local Planning Authority was unable to conclude that the Site formed part of an established agricultural unit and refers to conditions restricting the use of the proposed stable block to equestrian purposes.

6.5

However, the Applicant respectfully considers that the Officer Report appears to relate to the separate 2009 permission for the new stable block and riding arena at Wrens Brook, rather than the existing livestock sheds authorised under planning permission reference N/94/01430/S73.

6.6

The buildings subject to this LDC application are the original livestock sheds approved in 1994 and not the unbuilt stable block proposed under the later 2009 application.

6.7

Accordingly, it is respectfully submitted that the planning history relating to the unbuilt 2009 stable block should be distinguished from the lawful planning status and historic use of the existing livestock sheds forming the subject of this application.

7. Class Q Prior Approval Application

7.1

Reference is also made to prior approval application reference PL/2021/08515 submitted under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

7.2

The Applicant understands that the application was refused because the Local Planning Authority was not satisfied that the statutory requirements of Class Q were met at that time.

7.3

Importantly, refusal of a Class Q application:

- does not revoke an existing planning permission;
- does not extinguish lawful existing use rights;
- does not constitute a determination that the buildings are unlawful; and
- does not determine the planning status of the Site for all purposes.

7.4

The Class Q decision must therefore be distinguished from the separate legal question arising under Section 191 of the Town and Country Planning Act 1990.

8. Legal Framework

8.1

An application under Section 191 is concerned with matters of:

- fact; and
- law.

8.2

The relevant test is whether, on the balance of probability, the claimed lawful use exists.

8.3

The determination of an LDC application is not a discretionary planning exercise and should not involve broader policy considerations unrelated to the factual planning status of the buildings.

8.4

In the absence of clear evidence to the contrary, properly prepared statutory declarations carry substantial evidential weight.

9. Assessment of the Evidence

9.1

The submitted evidence consistently demonstrates:

- longstanding rural use;
- continuity of agricultural and equestrian activity;
- absence of material change of use; and
- continuation of the character of the authorised development.

9.2

The statutory declarations are:

- internally consistent;
- mutually corroborative; and
- based upon direct observation over extended periods.

9.3

No contrary evidence has been identified demonstrating:

- abandonment;
- material change of use; or
- unlawful intensification.

10. Conclusion

10.1

The evidence submitted demonstrates, on the balance of probability, that:

- the buildings continue to benefit from lawful use rights arising from the 1994 planning permission;
- the use has remained rural, agricultural and private equestrian in character;
- no material change of use has occurred requiring further planning permission; and
- the lawful use of the Site should therefore be formally recognised.

10.2

Accordingly, the Applicant respectfully requests that the Local Planning Authority grants the Lawful Development Certificate as applied for.

Attachments

Schedule A — Statutory Declarations

- SD1 — Owner
- SD2 — Sue Steel
- SD3 — Derek & Jaqui Downes
- SD4 — Biagio Vitale

Schedule B — Planning History

- 1994 Planning Permission (N/94/01430/S73)
- Decision Notices
- Approved Plans
- Existing Site Layout
- Building Identification Plan
- Minety Parish Council Reference 10151 dated 18 August 1994 (“Livestock Sheds”)

Schedule C — Documentary Evidence

- Historical photographs
- Witness photographs from Mrs S. Plank
- Witness material from Derek and Jaqui Downes
- Wiltshire Council Site Inspection Notes — Robin Williams dated 24/08/2004 confirming livestock in field
- Agricultural records and cheque book records (1994–1995)

Schedule D — Plans

- Existing Site -Building Identification Plan Layout