CHEFFINS

Statement to Support an Application for a Certificate of Lawfulness for an Existing Use or Development (CLEUD)

Produced in accordance with

Section 191 of The Town and Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991

and the

Town and Country Planning (Development Management Procedure) (England) Order 2015.

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Exhibits

Exhibit DR01 – Location Plan

Exhibit DR02 – Email from Huntingdonshire District Council Business and Valuation Team

Exhibit DR03 – Data Protection Registration Certificate

Exhibit DR04 – Communications from other sources

Exhibit DR05 – aql invoices and Daisy Communications

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Appendices

Appendix A - Accounts Summary from Doves Hygiene (2009-2024)

1. Introduction

1.1 Cheffins has been instructed by Mr David Reynolds ("**the Applicant**") to prepare a Planning Statement to support an application for a Certificate of Lawfulness for an Existing Use or Development (CLEUD). This application pertains to land and property known as Enterprise House, Bluntisham Road, Needingworth, PE27 4TA ("**the Site**").

1.2 The Site has been outlined in red on the Location Plan produced by Graham Handley Architects and submitted as part of this application, please see **Figure 1** below.

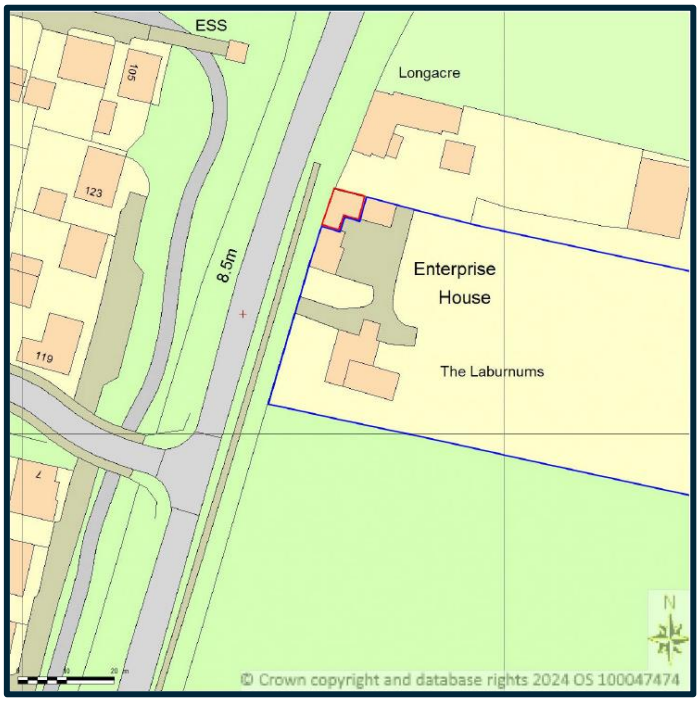

Figure 1 – Location Plan

1.3 This application for a Lawful Development Certificate has been submitted to confirm the following:

'the land and property known as Enterprise House, Bluntisham Road, Needingworth, PE27 4TA has been used as a single commercial office (Class E) for more than ten years before the date of this application.'

1.4 This Statement should be read in conjunction with the evidence that has been submitted as part of this application. This Statement and the accompanying evidence clearly establish that the commercial use (Class E) has occurred on site for a period exceeding ten years and should be recognised as the lawful use of the Site in accordance with Section 191 of the Town and Country Planning Act 1990.

Accompanying Evidence

1.5 The following documents have been included within the Statutory Declaration to demonstrate that the Site has been used as an independent commercial office unit in excess of 10 years:

- Invoice from Doves Hygiene Services (provides cleaning services)
- Invoices from aql (proving telecommunications)
- Invoice from Daisy Communications (providing phone systems)
- Data Protection Registration Certificate
- Huntingdonshire District Council Valuation
- Hiscox UK (Insurance Company)
- Extract from Companies House

2. Site Description and Development Context

Physical Context

2.1 The Site comprises a single-storey structure that has been used as a standalone commercial office (Class E) in excess of 10 years.

2.2 The building has been in situ since at least 1887 and may have originally been an outbuilding to serve The Carpenters Arms, as shown on the OS map, dated 1887 (see **Figure 2**). The building is not Listed nor is it considered to be any other form of heritage asset.

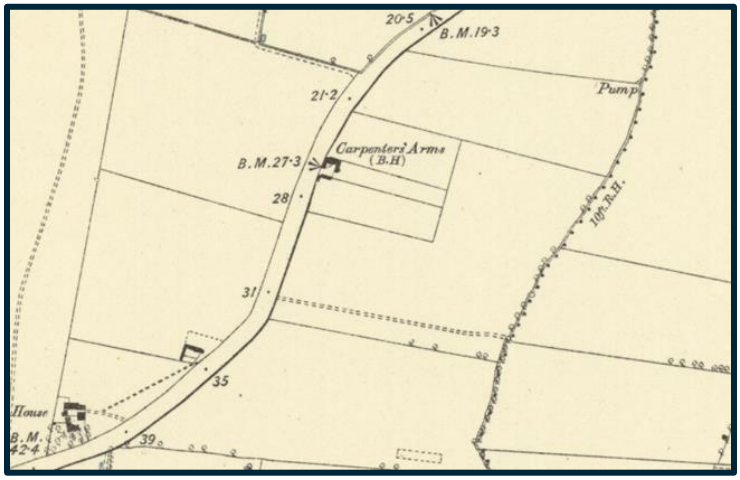

Figure 2 – OS map published 1887 (Source Scotland Library)

2.3 Enterprise House is rendered and painted cream, it has a pantile roof with uPVC windows and doors. The Site is accessed from Bluntisham Road, via vehicular crossover followed by a gravel drive. The Site is between The Laburnums to the south and Long Acre (previously The Carpenters Arms) to the north. Immediately opposite the Site is a development of 120 homes by David Wilson Homes.

2.4 Whilst the Site is not within a built up area, it is well related to the built up area of Needingworth. There is a footpath that runs into the centre of the village, with road access to the A1123.

Planning History

2.5 According to the Council's public access system, there is no relevant history in relation to Enterprise House.

Historic Use

2.6 The Site has been the primary office for Pro Care UK since 05 January 1998 as confirmed by the accompanying Statutory Declaration. The Site is currently owned by the Applicant, Mr David Reynolds, who has been responsible for the Site's management for the duration of the business use.

3. Evidence of Existing Use

3.1 The documents listed below have been included in the Statutory Declaration and submitted to provide further details of the Site's commercial use (Class E). In accordance with Section 10 of the *Planning and Compensation Act 1991*, it is our understanding that the evidence submitted as part of this application is true and none of the evidence submitted as part of this application is intended to deceive the local planning authority.

Statutory Declaration of Mr David Reynolds

3.2 A Statutory Declaration from the Applicant, Mr David Reynolds, has been submitted in support of the application. The Statutory Declaration confirms that Enterprise House has been used as a commercial office (Class E) in excess of ten years, providing invoices and includes an email from Huntingdon District Council Business and Valuation Team. As part of the Statutory Declaration there are a number of supporting documents as listed below:

- Invoice from Doves Hygiene Services
- Invoices from aql
- Invoice from Daisy Communications
- Data Protection Registration Certificate
- Huntingdonshire District Council Valuation
- Hiscox UK (Insurance Company)
- Extract from Companies House

3.3 Dove Hygiene Services are a washroom and servicing specialist that support the office at Enterprise House. The invoices provided are dated from February 2009 to November 2024. These are provided under Appendix A and demonstrate that Dove Hygiene Services have been servicing Enterprise House for in excess of 10 years.

3.4 Aql is a telecommunications Operator. Enterprise House has been using their services since June 2006. As part of the application, they have provided 241 invoices since June 2006 to date. These are provided under Exhibit DR05 and clearly show that Enterprise House has been using their services to support the commercial business (Pro Care UK) for in excess of 10 years.

3.5 Daisy Communications, provide a telephone system for the business operating out of Enterprise House. They have provided a statement that states that they have provided a service from 1 July 2011 until 30 November 2024. This is provided under Exhibit DR05 and clearly demonstrates that Enterprise House has been operating in excess of 10 years as a commercial office.

3.6 A certificate is provided by the ICO (Information Commissioners Office) which certifies that PCM located in Enterprise House have been registered with a Data Protection Certificate since October 2000. The certificate, which not only names the company but provides the address of Enterprise House as being registered with the ICO which is in excess of 10 years. This is provided under Exhibit DR03.

3.7 An email has been provided by Huntingdonshire District Council's Business and Valuation Team. The email states that Enterprise House has been commercially rated since 05 January 1998 with the Local Authority. On this basis the Local Authority have been aware that Enterprise House has been in commercial use since registered in 1998, in excess of 10 years. This is provided under Exhibit DR02.

3.8 Exhibit DR06 provides an email from Hiscox, who are an insurance company. The information provided by the Insurance Executive states that Pro Care UK has had products and products liability; employers liability; contents; buildings and business interruption from 12 January 2007 until 18 November 2022. The policy was revised in 2022 to only include public liability. This information clearly demonstrates that the business has been operating from Enterprise House for in excess of 10 years.

3.9 The Applicant, Mr David Reynolds, has signed and witnessed by a Solicitor a Statutory Declaration. The Statutory Declaration states that Pro Care UK have been using Enterprise House since 1998 as the commercial premises for the operation of the business.

3.10 Within Exhibit DR04 of the Statutory Declaration, there are various communications from other businesses to David Reynolds at Enterprise House.

- Barr Ellison wrote to Pro Care UK discussing Cromwell Business Centre. The letter was dated 28 October 2002.
- BT wrote to Enterprise House with regard to setting up a direct debit for the business. The letter was dated 08 November 2002.
- East Midlands Newspaper Limited wrote to Pro Care UK with regard to a refund, dated 10 February 2002.

3.11 This additional information clearly supports that Enterprise House has been used by David Reynolds and Pro Care UK as the operational base for the business. It is considered that the Enterprise House has been used a commercial premises for in excess of 10 years.

3.12 The evidence provided spans over a period of 27 years, beginning in 1998; therefore, evidencing that Enterprise House has been used a commercial premises for in excess of 10 years. On this basis, the use of the land and building would be considered Class E of The Town and Country Planning (Use Classes) Order 1987 (as amended).

5. Legal Tests

5.1 Section 191 of The Town and Country Planning Act establishes a series of legal tests to determine the lawfulness of an existing use or development in the event that said use or development does not benefit from a formal planning consent where it would normally be required. Paragraph 2 (a) of Section 191 of The Town and Country Planning Act provides the relevant test for this application:

"*For the purposes of this Act uses and operations are lawful at any time if—*

(a) 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)."

5.2 Section 171B of The Town and Country Planning Act 1990 establishes a series of statutory timeframes in which enforcement action cannot be taken against breaches of planning control. Of particular relevance is what is colloquially referred to as the "ten-year test" within Paragraph (1)a of Section 171B of The Town and Country Planning Act 1990, which states:

"Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of—

(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed,"

5.3 It is noted that the Levelling Up and Regeneration Bill introduced changes to enforcement time periods. It does not apply in this case, as it does not relate to a residential use, whereby the four year rule would apply.

5.4 The submitted evidence demonstrates that the commercial use (Class E) of Enterprise House, has been continuous in excess of ten years. The evidence submitted as part of this application also demonstrates that, on the balance of probability, this use has been continuous for a period in excess of ten years.

5.5 Section 10 of the Planning and Compensation Act 1991 establishes a procedure that enables a member of the public to apply to the relevant local planning authority to determine whether an existing use of land, an existing operational development, or any other matter constituting a failure to comply with any condition or limitation to which planning permission was granted, is lawful given the passage of time and, if considered lawful, be granted a certificate to that effect.

5.6 The Courts have held that the relevant test of the evidence on such matters hinges on the "balance of probability". As this test will accordingly be applied by the Secretary of State in any appeal against a decision, local planning authorities should not refuse an application for a Certificate of Lawfulness because an applicant has

failed to discharge the stricter, criminal burden of proof, namely a demonstration "beyond reasonable doubt". Moreover, the Court ruled that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted (see *F. W. Gabbitas v SSE and Newham LBC [1985] JPL 630*).

5.7 An article written by Dr Anton Lang MRTPI[1] "*The balance of probabilities test is not a 'beyond reasonable doubt' test – it just means something was more likely to have occurred, than not.*" From the evidence provided it is considered that on the balance of probabilities, Enterprise House has been used as a commercial property (Class E).

5.8 Therefore, the use of Enterprise House passes the relevant tests, and the commercial status of Enterprise House should be recognised as lawful given the passage of time.

Conclusion

5.9 The evidence submitted as part of this application proves that, on the balance of probability and given the passage of time, the lawful, existing use of Enterprise House is a commercial property (Class E). The application evidence satisfies the relevant legal test established by both Section 171 and Section 191 of the Town and Country Planning Act 1990 (the ten year rule) which establishes Enterprise House immunity against enforcement action by the Council.

5.10 The evidence submitted as part of this application proves that, on the balance of probability and given the passage of time, the lawful, existing use of the Site is a standalone commercial office (Class E). The application evidence satisfies the relevant legal test established by both Section 171 and Section 191 of the Town and Country Planning Act 1990 (the ten-year) which establishes the Site's immunity against enforcement action by the Council.

5.11 Given the evidence provided as part of this application for a CLEUD, it is clear that the land and building known as Enterprise House, Bluntisham Road, Needingworth, PE27 4TA have been in uninterrupted standalone commercial office use since the 05 January 1998 – over ten years ago – and, thus, should be recognised as lawful.

[1] *https://docs.planning.org.uk/20210311/110/QOS04RBBHEH00/131r8m1x2upy0zh4.pdf*

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