Summary of Evidence

The Old Bakery, 53 High Street, Earith, Huntingdon, PE28 3PP

Prepared For

Mike Balding and Emilie House

MM-6270

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CHARTERED TOWN PLANNERS

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1 FACTS OF THE CASE

1.1 The Old Bakery, 53 High Street, Earith, was previously operated as a (Class E) bakery. However, it had been converted to a (Class C3) dwellinghouse prior to being sold to Mike Balding and Emilie House on 8 August 2014. Mike and Emilie occupied the property as their family home from August 2014 to July 2024, before moving to their new home in Devon.

1.2 Whilst Emilie's mother, Andrea House, moved into the property in July 2024 and continues to live there as her main place of residence, it has come to light that there is no record of planning permission having been granted for the historic change of use from a (Class E) bakery to (Class E) single dwellinghouse.

1.3 In order to redress this situation, a previous application for a Certificate of Lawful Existing Use or Development (CLEUD)(ref: 25/01078/CLED) (submitted on behalf of Mrs House) sought to demonstrate that lawful use of the property (including the rear cartlodge) as a residential dwelling had become lawful over the passage of time.

1.4 In reviewing the limited evidence that was submitted in support of this previous application for a CLEUD, officers accepted that *"the submitted evidence confirms that the property has been used residentially"*, however, they determined that *"it does not demonstrate a continuous residential use due to insufficient documentation."* They, therefore determined to refuse to grant a CLEUD and issued the refusal notice on 12 September 2025.

1.5 In response to the refusal, the owners of the property Mike Balding and Emilie House; and the occupier, Andrea House, have now gathered significant additional evidence to prove that "on the balance of probabilities" the property has been used a (Class C3) single dwellinghouse with ancillary accommodation within the rear cartlodge (including the accommodation created via conversion of the loft space within the cartlodge in 2015) for a sufficient continuous period in order for this to be established as the lawful use.

1.6 It is noted that the previous CLEUD application sought to provide evidence over a ten-year period. However, as the change of use to a single residential dwelling with ancillary

accommodation had taken place ahead of 25th April 2024 (when the period of use required to establish lawful use as a single dwellinghouse changed from 4 years to 10 years), the evidence in support of this application is righty focused on demonstrating that the lawful use has been established 'on the balance of probabilities' over a continuous period of at least 4 years ahead of submission.

2 STATUTORY FRAMEWORK AND CASE LAW

The requirements for an application for a Certificate of Lawful Existing Use or development

2.1 An application for a certificate of lawfulness of existing use (or development) can be made under Section 191 of The Town and Country Planning Act 1990 [as substituted by the Planning and Compensation Act 1991, s. 10(1)], which provides:

> *"(1) If any person wishes to ascertain whether –*
>
> *(a) any existing use of buildings or other land is lawful; or*
>
> *(b) any operations which have been carried out in, on, over or under land are lawful; or*
>
> *(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,*
>
> *he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.*
>
> *(2) 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); and*
>
> *(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*
>
> *(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if –*

(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

2.2 National Planning Practice Guidance (NPPG) provides guidance on Lawful Development Certificates. In the case of applications involving existing use or development, 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.

2.3 In determining whether the evidence submitted is sufficient for a certificate of lawfulness to be issued the Courts have held that the relevant test of the evidence is "the balance of probability". Furthermore, *FW Gabbitas vs SSE and Newham LBC [1985]* has long established that the applicant's evidence does not need to be corroborated by "independent evidence" in order to be acceptable (albeit it does make it clear that in order for a case to be made successfully the evidence does need to be precise and unambiguous).

2.4 Accordingly, if the activity in question is shown to be lawful, the Council has no discretion other than to grant the application and so issue a certificate to that effect - as required by Section 191(4) of the TCPA.

The period required to establish lawful use "over the passage of time"

2.5 Prior to 25 April 2024, Section 171B of the Town and Country Planning Act (TCPA) 1990 stated:

> *(1)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 four years beginning with the date on which the operations were substantially completed.*
>
> *(2)Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.*

2.6 Section 115 of the Levelling Up and Regeneration Act 2023 (LURA), came into force on 25 April 2024. This removed the four-year period for the breaches of planning control pertaining to operational development and changes of use to a single dwellinghouse under Section 171B(1) and (2) of the TCPA – thereby all breaches of planning control to 10 years for all forms of development in England.

2.7 Complementary to this, on 2 April 2024, "The Planning Act 2008 (Commencement No. 8) and Levelling-Up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 (2024 Regulations) were made. The 2024 Regulations brought Section 115 of the LURA in to force, so that from 25 April 2024, the period for all breaches of planning control, whether operational development, changes of use to dwellinghouse or breaches of condition, became 10 years, subject to transitional provisions.

2.8 Critically, Regulation 5 of the 2024 Regulations details the transitional provisions in respect of amendments made to the 1990 Act by section 115 of the 2023 Act (time limits for enforcement), and state that the change to the time limits from 4 to 10 years at Section 171B of the TCPA does not apply where:

(a) *in respect of a breach of planning control referred to in section 171B(1) of the 1990 Act (5) (time limits), the operations were substantially completed, or*

(b) *in respect of a breach of planning control referred to in section 171B(2) of the 1990 Act (time limits), the breach occurred, before the day on which that section comes into force.*

2.9 Whilst the evidence in support of this application dates back to 8 August 2014, when the property was bought (as a family house) by the current owners (and applicants) Mike Balding and Emilie House, the bulk of this is focused on clearly demonstrating residential occupation by Mike and Emilie, their two children and Emilie's mother, Andrea House, has occurred continuously for at least the last four years – in accordance with the Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024.

Relevant Case Law

2.10 *Thurrock Borough Council v Secretary of State for the Environment [2002] EWCA Civ 226, [2002] JPL 1278* related to the use of land to provide space for aircraft to land and take off and be stored between flights. It established that for an unlawful change of use to gain immunity from planning enforcement over the passage of time (in that case over a period of ten years), the use must be actively and continuously in existence for the entire period – and thus must have been capable of being the subject of planning enforcement action.

2.11 In respect of use of a property as a single dwellinghouse, in the judgement in *Gravesham Borough Council v Secretary of state for the Environment and Another (1984) 47 P. & C.R. 142* it was held that a distinctive characteristic of a dwellinghouse was its ability to afford those who used it, the facilities required for day-to-day private domestic existence. In the judgement it was noted that *"If a house is empty pending its sale or because its owner cannot, or does not want, to let it, it is still a dwelling-house. So, emptiness is not fatal";*

and *"a capacity to provide permanent accommodation is the essential character of a dwelling-house".*

2.12 The question of lawful use was clarified further by the judgement in *Swale v Borough Council v Secretary of State for the Environment [2005] EWCA Civ 1568, [2006] JPL 886.* In this case the Court held that there is a significant difference between an established dwellinghouse whereby an occupier does not have to be continuously or even regularly present in order for it to remain in use as a dwellinghouse; and a situation in which lawful use of a property as a dwellinghouse is yet to be established.

2.13 The judgement confirmed that "affirmative establishment" was needed over the four-year period, in order for a certificate of lawfulness to be issued. As part of providing "affirmative establishment" it was determined that although short term periods of vacancy, such as the occupants being away on holiday, should be considered as *de minimis*, occupancy should otherwise be demonstrated over the required period to establish lawful use as a (Class C3) dwellinghouse.

2.14 In addition, the judgement also established that, once a material change of use has gained immunity to enforcement over the passage of time, it can be "banked" at any time provided that it has not been abandoned or relinquished by a further material change of use.

2.15 As regards ancillary residential use, the judgement in the planning enforcement case of *Uttlesford DC v SSE & White* [1992] determined that the conversion of a garage to a "granny annex" had not resulted in a change of use, stating that even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling.

2.16 In that case, the inspector explained that although the accommodation gave the occupant the facilities of a self-contained unit, it was intended to function as an annex, with the occupant sharing her living activity in company with the rest of the family living in the main dwelling. The judge acknowledged that the "granny annex" was connected to the main dwelling by a footpath and that a single household would share eating and

socialising across both the main dwelling and the annex, and concluded that there was no reason in law why the annex accommodation should consequently become a separate planning unit from the main dwelling. Consequently, it was determined that the land remained in a single planning unit and no material change of use (from a single dwellinghouse) had arisen.

2.17 Whilst it is to a degree a matter of judgement as to whether the evidence provided in support of an application for a certificate of lawful use is sufficient to demonstrate "on the balance of probabilities" that a use or development has become lawful over the passage of time, the courts and appeal decisions have established that suitable evidence can include, inter alia, plans, "Google Maps" aerial and "street view" images, photographs, Council tax and utility bills, and statements of truth and/or sworn statutory declarations.

3 ASSESSMENT OF THE FACTS AGAINST THE LEGISLATION AND CASE LAW

Sales particulars

3.1 The sales particulars provided at **Appendix A** describe the property (The Old Bakery, 53 High Street, Earith) as having been converted to a dwellinghouse by the vendors, stating that they *"have transformed the property with a programme of sympathetic refurbishment"…."including the dining room with original shop façade and the incredible sitting room which was the former Bake House, still with its original bread oven, coal stove, etc".* The particulars describe a domestic property room by room and it is also explained that "outside , the former Granary *and Barn have been restored and could easily be converted to suit the needs of the buyer should they require a self-contained space, a rental income or a place to work."*

3.2 The floorplans within the sales particulars show the property as being laid out as a fully self-contained single dwellinghouse, with dining room, sitting room, lounge, fitted kitchen/breakfast room, cloakroom/WC, family bathroom and 4no. bedrooms (with en-suite bathroom to the main bedroom); and providing ancillary residential accommodation with a shower room forming part of this accommodation at first floor level (labelled "The Barn" and "The Granary".

Title deeds

3.3 The Land Registry title deeds for the property (Title Number: CB323664) at **Appendix B** confirm the Mike Balding and Emilie House acquired the property on 8 August 2014 and that they were registered as the legal owners on 4 September 2014. The accompanying Title Plan shows the property to comprise the main house, the rear cartlodge and adjoining land.

Mortgage Account Summary Statement

3.4 A scan of a Mortgage Account Summary Statement (from Santander Mortgage and Loan Operations) from 2019, is provided as **Appendix C**. This identifies Mrs EN House and Mr

MW Balding as the borrower, the mortgage property address as 53 High Street, Earith and the date the mortgage started as 8 August 2014.

Council Tax Records and Bills

3.5 Scanned copies of paper Council Tax bills are attached at **Appendix D**. The bills cover the following dates:

- 20 November 2014
- 15 March 2022
- 18 September 2024
- 15 March 2025

3.6 It is to be noted that the bills from 2014 and 2022 are addressed to *"Miss E House, Mr M Balding"* and the bills from 2024 and 2025 are addressed to *"Mrs A Chance",* with the reason for issue of the bill on 18 September 2024 stated to be: "New Account". The most recent bill, from 15 March 2025, identifies a "single occupant" discount.

3.7 Whilst the copies of the bills are incomplete, letter from Huntingdonshire District Council's Council Tax team dated 6 October 2025 is provided at **Appendix E**. This letter, addressed to Miss Emilie House & Mr Michael Balding, confirms that *"53 High Street, Earith, Huntingdon, Cambs, PE28 3PP is a residential property where you were responsible for the Council tax for the period 08-AU-2014 to 31-AUG-2024"* and that *"According to our records you are still both named as the owners of the aforementioned property & the property is still in residential use by another occupant."*

Utility bills

3.8 Gas and Electric Bills from 5 September 2015 addressed to "Mr M Balding and Mrs E House" (covering the period of usage from 6 September 2014 - 5 September 2016) are provided at **Appendix F** together with more recent combined gas and electricity bills from 20 September 2022, 30 October 2023, 20 January 2024, 20 January 2025 and 20 November 2025 , which are addressed to Mrs Emilie House.

3.9 Water Bills from 12 February 2022, 3 March 2023, 28 February 2024 and 21 February 2025 – all addressed to Ms Emilie House - are provided at **Appendix G**.

3.10 These utility bills show that the property has been in active residential use for a continuous period in excess of four years, with gas, water and electricity consumed by the occupants living at the property.

Evidence of registration for Nursery and Primary School

3.11 Copies of invoices issued by Silks Farm Nursery and Pre-school, St. Ives Rd, Somersham, Huntingdon, PE28 3ET (all addressed to Mr Mike Balding at "The Old Bakery") in respect of nursey school education for the applicant's two children - Sullivan (2019-2022) and Saffron (2021–2024) – are provided at **Appendix H**.

3.12 The letter (and covering email dated 9 December 2025) from Karly Green (Deputy Manager, Silks Farm Nursery and Pre-school) at **Appendix I** confirms the dates Sullivan and Saffron were enrolled at Silks Farm Nursery and Pre-school.

3.13 A letter is from Earith Primary School (dated 9 December 2025) advising that the oldest child (Sullivan) attended Earith Primary School from 1st September 2022 to 19th July 2024 is also provided at **Appendix J**.

3.14 These documents confirm that the applicant's children were provided with education in the local area to the Property from March 2019 until late July 2024, reflective of them and their parents being permanent residents over this period.

Google Streetview images

3.15 Google Streetview images (provided at **Appendix K**) show the property without any shopfront or commercial signage. Instead, the property is seen to be domestic in character - with curtains, net curtains, a hanging basket and a satellite dish all apparent at October 2008, September 2014, May 2021, September 2021, July 2022 and May 2023.

Photographs

3.16 Photographs showing the main house and cart-lodge being in residential use are provided chronologically (at **Appendix L**).

3.17 The photographs show domestic use of the main house (with domestic items such as furniture, pictures ornaments/pottery houseplants and toys all on show) in 2014, 2020, 2021, 2022, 2023, 2024 and 2025. They also show the cartlodge being refurbished in 2014-2015, and being in active domestic use (with domestic items such as furniture, pictures ornaments/pottery houseplants and toys all on show) in 2020, 2021, 2022, 2023, 2024 and 2025; with the rear access door to the garden also shown on one of the photographs as installed by March 2020.

3.18 Clearly labelled original versions of the (electronic) photographs are provided, to enable officers to identify the relevant date and part of the property and to allow viewing of the corresponding metadata to cross-check the date they were taken (by right-clicking on the file, selecting "Properties" and then the "Details" tab).

3.19 It is readily apparent that the content and character of the rooms (including carpet, furnishings, personal items and toys) as shown in the photographs, is reflective of domestic use of the property over a period of more than four years.

Other documentary evidence

Building Regulations Compliance Certificate

3.20 A Building Regulations Compliance Certificate ref: 13720301 (at **Appendix M**) was issued on 12/01/2015 confirming that the installation of a gas-fired (Vaillant, Ecotec Plus 618) boiler by Andrew Edward Hamilton of Hamilton Plumbing and Heating *"was carried out in accordance with the Gas Safety (Installation and Use) Regulations and Rules of Registration"*, and *"has been self-certified by the registered business as being compliant with Section 4 and 7 of the Building Regulations in England, Wales and the Isle of Man."*

Electrical Condition report

3.21 An Electrical Condition report, issued on 10 September 2024 by Colin Barson Electrical Services (following inspection and testing on the same date), which identifies the property as a "dwelling" is provided at **Appendix N**.

Floorplans

3.22 Drawing ref: SC/25/462-201 (dated June 2025) showing the current layout of the property is provided at **Appendix O**. Comparison with the floorplans provided with the Sales Particulars in 2014 (at **Appendix A**), reveals there to be no material changes to the main house, and the alterations to the ancillary cartlodge accommodation (following the completion of loft extension works in 2015) to be readily apparent. The layout of the main house and ancillary accommodation is shown to be domestic in character, with a fitted kitchen, 2no. bathrooms, a WC and an en-suite bathroom clearly shown.

Statutory declarations

3.23 Statutory declarations from the following individuals are provided (together with relevant supporting evidence) to confirm the above information to be fact:

- Andrea House – Current resident (**Appendix P**)
- Emilie House – Part-Owner and former resident (**Appendix Q**)
- Carl Fillary – Neighbour: Owner-occupier of 51 High Street, Earith (**Appendix R**)

3.24 The Statutory declarations corroborate the evidence contained at Appendices A-O, and confirm that there has been residential occupancy of the main house and ancillary accommodation (within the cartlodge) by a single household for a continuous period in excess of four years to date.

4 CONCLUSION

4.1 This application has been submitted (in the absence of any formal planning permission) to confirm that The Old Bakery, 53 High Street, Earith, Huntingdon, PE28 3PP has been in use as a (Class C3) dwellinghouse for a continuous period in excess of four years at the date of submission - and thus has become lawful over the passage of time.

4.2 Following the refusal of a previous application for a Certificate of Lawful Existing Use or Development (CLEUD) for the subject property due to insufficient evidence being provided, this fresh application is supported by significant evidence of active use as a (Class C3) dwellinghouse, that is corroborated by 3no. statutory declarations that describe how the entire property (comprising the main house and ancillary accommodation to the rear) has been occupied by the applicants (Emilie House and Mike Balding) from 2014-2024 (and their children since 22 January 2018 and 26 November 2019), with the mother of one of the applicants (Andrea House) resident at the property from 2019 to date.

4.3 In accordance with the requirements of Sections 171 and Section 191 of the TCPA, Regulation 5 of the Levelling-Up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024, as well as established case law, the evidence provided in support of this application for a CLEUD is deemed sufficient to prove “on the balance of probabilities” that the property has been continuously occupied as a single (Class C3) dwellinghouse for a sufficient period of time for this to now be confirmed as the lawful use.

4.4 Accordingly, the applicant respectfully requests that a Lawful Development Certificate is issued to confirm this existing use as lawful.

APPENDIX A

THE OLD BAKERY, 53 HIGH STREET, EARITH - SALES PARTICULARS

APPENDIX B

THE OLD BAKERY, 53 HIGH STREET, EARITH – TITLE DEEDS

APPENDIX C

THE OLD BAKERY, 53 HIGH STREET, EARITH - MORTGAGE ACCOUNT SUMMARY STATEMENT

APPENDIX D

THE OLD BAKERY, 53 HIGH STREET, EARITH - COUNCIL TAX BILLS

APPENDIX E

LETTER FROM HUNTINGDONSHIRE DISTRICT COUNCIL'S COUNCIL TAX TEAM DATED 6 OCTOBER 2025

APPENDIX F

THE OLD BAKERY, 53 HIGH STREET, EARITH - GAS AND ELECTRICITY BILLS

APPENDIX G

THE OLD BAKERY, 53 HIGH STREET, EARITH - WATER BILLS

APPENDIX H

INVOICES ISSUED BY SILKS FARM NURSERY AND PRE-SCHOOL

APPENDIX I

LETTER (AND COVERING EMAIL) FROM SILKS FARM NURSERY AND PRE-SCHOOL DATED 9 DECEMBER 2025

APPENDIX J

LETTER FROM EARITH PRIMARY SCHOOL DATED 9 DECEMBER 2025

APPENDIX K

GOOGLE STREETVIEW IMAGES OF THE PROPERTY

APPENDIX L

PHOTOGRAPHS SHOWING USE OF THE PROPERTY

APPENDIX M

BUILDING REGULATIONS COMPLIANCE CERTIFICATE REF: 13720301 DATED 12 JANUARY 2015

APPENDIX N

ELECTRICAL CONDITION REPORT REF: 30149512, DATED 10 SEPTEMBER 2024

APPENDIX O

DRAWING REF: SC/25/462-201 - EXISTING PLAN - THE OLD BAKERY, 53 HIGH STREET, EARITH

APPENDIX P

STATUTORY DECLARATION OF ANDREA HOUSE

APPENDIX Q

STATUTORY DECLARATION OF EMILIE HOUSE

APPENDIX R

STATUTORY DECLARATION OF CARL FILLARY