APPLICATION FOR A CERTIFICATE OF LAWFUL DEVELOPMENT ON LAND TO THE REAR OF THE SCHAPPE BUILDINGS, LLAY INDUSTRIAL ESTATE

PLANNING STATEMENT

Introduction

This supporting statement has been prepared by Dave Williams, Planning agent,

on behalf of Mr Adrian Beech in relation to the formation of a hardstanding on land to the rear of the Schappe buildings on Llay industrial estate.
The applicant is applying to WCBC for a Certificate of Lawfulness for operational development under Section 191 of the Town & Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991.
The applicant is seeking demonstrate that the area of hardstanding has existed for more than 4 years and is therefore lawful and immune from Enforcement action.
Under the provisions of Section 10 if any person wishes to ascertain whether

- Any existing use of buildings or land is lawful
- Any operations which have been carried out in, on, over or under land are lawful, or
- 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 operations or other matters.
For the purposes of this Act uses and operations are lawful at any time if no enforcement action may be taken in respect of them, whether because they did not constitute development, require permission or because the time for enforcement action has expired.
With regards to the latter the Act introduces rolling time limits within which local planning authorities can take planning enforcement action against breaches of control.
In this case it is 4 years as opposed to 10 years which applies to all other development (apart from a change of use to a dwelling which is 4 years).
The creation of the hard standing falls within the broad definition of operational development. This includes building, engineering, mining or other operations in, on, over or under land without planning permission.
This development becomes immune from enforcement action 4 years after the operations are substantially completed.
Whilst the 4 year rule in England is now obsolete (all Lawful Use Certificates are subject to the 10 year rule as of 25th April 2024) it still applies in Wales.
In this instance it is accepted that the engineering operations to clear, level and compact the ground, creating areas of hardstanding to the rear of the Schappe buildings constituted 'development' and should have required planning permission, but because of the timescales involved it is now lawful

and immune from Enforcement action.
It is also acknowledged that the storage of containers etc on the land constitutes a change of use and would be subject to the 10 year rule timescale requirement as set out above. However, insufficient evidence is available to demonstrate that the storage use occurred over 10 years ago and a retrospective planning application will be made in due course to regularise the change of use.
Sufficient evidence does exist however to demonstrate that the hard standing has been in existence for more than 4 years and it is only for this operational development do we apply for a Certificate of Lawful Development.

Site Description & Background

The site immediately adjoins and straddles the north-western boundary of the Schappe Buildings on the Llay Industrial Estate. Access to the site is from Rackery Lane. It measures approximately 35m x 180m and is a relatively flat area which has been compacted with sporadic hardstanding. It is currently used for storage, siting of containers and the parking of vehicles in connection with adjoining commercial uses.
It is well screened by the existing building and vegetation along the north west boundary and beyond. To the east lies Meritor fitness club, which occupies a corner position, which has extensive adjoining hard surfacing with evidence of further construction also being undertaken in this area.
To the west lies open land beyond which is the new regional Police Headquarters. An open area of newt mitigation land lies to the north beyond which is Davy Way and Sharp manufacturing. Vehicular access to the site is via Rackery Lane.
The site is quite enclosed by existing neighbouring industrial/commercial buildings and dense vegetation, which assist in reducing its visual impact. In fact, it is extremely difficult, if not impossible to view the site from outside its curtilage.
The site itself and the surrounding land is defined as an Employment area within the recently adopted Local Development Plan, the planning status of which has remained unchanged following the previously replaced Wrexham Unitary Development Plan.
Over the years the site has been extended incrementally and used for storage. The encroachment into this area has been undertaken by 4 separate parties. Mr Adrian Beech, Yard at the end of Prospect industrial units; Mr Leon

Pierce, Alunox Units C/D; Mr Gwyn Jones, Play Revolution, Units E/F/G/H; Mr Phil Pearce, Elm, Unit J.
The area has been cleared, levelled and compacted, with the creation of a number of hard standing areas and containers on the land. The character of this site is very much of an industrial/commercial nature and has been for a number of years. The appearance of the site today is one of an established commercial use in association with the industrial nature of the surrounding area. It is also quite evident from the site's appearance that the containers and other paraphernalia have been present there for some considerable time.
A complaint was received by WCBC last November which regards to the use of the land and subsequently investigated by your Enforcement Officer Mrs Jo Last. Your Enforcement Ref ENF/2023/0332.
Within subsequent correspondence (letter from WCBC to Prospect Estates dated 10th November & email dated 3rd November from Mrs Last to the applicant) it is acknowledged that there are two elements to the breach of planning control. The creation of the hardstanding and the change of use for storage. This application for a Certificate of Lawful Use specifically relates to the formation of the hard standing, which has been in existence for more than 4 years.

Evidence

The evidence provided will refer to the following

- *Correspondence from WCBC to the applicant following their initial investigations*
- *A series of dated photographs taken at different parts of the site*
- *Correspondence from Solicitors acting on behalf of one of the affected parties*
- *Signed Affidavits from third parties who currently operate from neighbouring premises on the Llay Industrial Estate.*

- *Correspondence from WCBC to the applicant following their initial investigations*

An email from your Enforcement Officer Jo Last to abeechbuilders@gmail.com dated 3 November (Appendices Item 1) accepts

that the hardstanding has been there for more than 4 years and is therefore immune from any formal Enforcement action. The email implies that she had already checked historical satellite imagery and concluded that the hardstanding was lawful as a result of the passage of time. Jo Last specifically states that she had "attached some Google Earth Images showing the different times over the last 20 years and you can see the changes that have taken place". She goes on to state that "the hardstanding appeared at some point prior to June 2018, therefore it is immune from enforcement action however it may be advisable to submit a certificate of lawfulness for the hardstanding if you wish to sell on the land in future." There is also recognition that the storage use began in 2018 and has increased over the years to what it is today.

This is clear evidence that you as a Planning Authority have already undertaken some investigations and accepted that the hard-standing area is immune from Enforcement action. Reference to the fact that storage began after 2018 would also imply that the site had already been prepared for that purpose before that date. It is therefore reasonable to conclude the containers, and other storage paraphernalia were placed upon the land after the site became a hard standing area.

In submitting this application, the applicants are actually following the Enforcement Officer's helpful advice to regularise the situation. It would be inconceivable for the Enforcement Officer to have invited an application in this way and made those comments if she was unconvinced the hardstanding had not been there for over 4 years. The red line depicting the application site area was also prepared and supplied by Jo Last to help expedite the process of regularising the situation through the submission of the LDC application. This is included within Appendix 1.

- *Photographic evidence*

A series of dated photographs are included in Appendices 2. These photographs dated from 15 September 2013 show various images of the site. The earliest photograph shows the extent of the site clearance at this time. Subsequent photographs dated 14 December 2015, 22 January 2016, 28 January 2016, 13th February 2016, 27 June 2016 show various parts of the site which have been levelled and compacted to create a hard standing. The photograph dated 28 January 2016 actually shows the construction of the hard standing with containers already present on site at that time. Containers are also present on other photographs which demonstrate that the

works to undertake the hardstanding area had already occurred.
A photograph dated 14 December 2015 actually shows a concrete base section which been used for storage purposes.
Whilst there are no photographs which show the site in its entirety it can be concluded that on the balance of probability the photographic evidence would indicate that the hardstanding can be legitimately considered as immune from Enforcement action.
Finally, an aerial image contained in Appendix 3 shows the extent of the hard surfacing at some point in time prior to the construction of the Meritor Fitness Club, which now occupies the northeast corner of the site. Whilst the image is undated, the construction of this building took place over 4 years ago. Again, this helpfully demonstrates that the hard standing had already been created before this date.

- *Correspondence from Solicitors acting on behalf of one of the affected parties*

This relates to an email from Thomas Andrews and Partners Solicitors advising Phil Pearce, one of the affected parties, in respect of land purchase. Appendix 4. The email is dated 27 October 2014 and within it the Solicitor Jill Medcalf provides planning advice regarding storage units on the site. It can only be deduced that some of the storage units were either present on site at that time or were about to be moved onto the site. This was nearly 10 years ago comfortably beyond the timescales to establish immunity from enforcement action for operational development. Again it is reasonable to assume that a substantial area of hard standing would have been in place at this time or shortly afterwards.

d) *Signed Affidavits from third parties who currently operate from neighbouring premises on the Llay Industrial Estate.*

In line with normal practice, the evidence submitted should be clear and convincing. Where questions of fact are involved the local authority will expect to see statements from persons with direct knowledge of those facts. It is normal to require these statements in the form of 'sworn affidavits' and the original documents submitted as is the case here.
Appendix 5 provides three signed Affidavits from third parties who have operated from neighbouring premises for a number of years and are not in any way connected to the business operations of the applicant or those other

parties with an interest in the land.
These Affidavits have been prepared, signed and witnessed by Allington Hughes Solicitors. They all explicitly state that the land subject to this application has been a hardstanding for more than 4 years.

Conclusion

To conclude therefore, the extent of the evidence provided clearly demonstrates that the area has been used as a hardstanding for more than 4 years. A fact already accepted by your previous Enforcement Officer Jo Last during her initial investigations last November.

It is therefore respectfully requested that a Certificate of Lawfulness for an existing use is granted in relation to the hardstanding to the rear of the Schappe Building as shown on the submitted plan.

APPENDICES

- *Email from Enforcement Officer to applicant dated 3rd November 2023*
- *Series of photographs taken of the site between 2013 and 2016*
- *Aerial image of the site taken before the construction of Meritor Fitness Club*
- *Email from Thomas Andrews Solicitors 27th October 2014*
- *Sworn Affidavits from adjoining third parties, witnessed by Allington Hughes Solicitors*