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Development Management  
St Albans City and District Council  
Civic Centre  
St Peters Street  
St Albans  
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20 July 2018

Dear Sir/Madam,

## **APPLICATION FOR CERTIFICATE OF LAWFUL DEVELOPMENT (EXISTING)**

### **SMALLFORD WORKS, SMALLFORD LANE, ST ALBANS, AL4 0SA**

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We write on behalf of Stackbourne Ltd to submit this formal application for a Lawful Development Certificate (LDC) to establish the existing lawful use for the industrial uses that have carried out over the last 10 years at the above address. The Site Location Plan, submitted in support of this application identifies the extent of land.

The application is supported by detailed evidence that confirms that the uses have been carried out for a continuous period of over 10 years. However, it is significant that the Council has determined that, in granting permission for a previous application at the site, that the use of the land and buildings at the site for industrial uses and commercial storage are outside the time limits for enforcement. It is also significant that, in coming to a Screening Opinion on proposals for development at the site in 2016 (Ref 5/2016/2730), the Council confirmed that the site is an "established employment site". Similarly, the Council advised, in its response to a request for pre-application advice in 2017 (Ref: PRE/2016/0174), that the use of the site for employment "goes back to its original use as a brickworks which pre-dates the Planning System introduction in 1948".

As such, this application is submitted as a formality to regularise the planning position at the site. Indeed, the submission has been made following the advice of the Council in its response to the pre-application request, wherein the Council stated:

*"It is strongly recommended that the current use(s) are clarified legally (Certificate of Lawful Development Existing) or, an appropriate planning permission for current uses on site are sought."*

It is in this context that the current application is submitted.

## **1 Application Submission**

In addition to this letter, please find enclosed the following documents which comprise the supporting evidence to this application:

- Site Location Plan
- Officers Report relating to an application for a new access road (Ref: 5/2002/2112)
- 2009 Reinstatement Cost Assessment

- 2012 Reinstatement Cost Assessment
- 2013 Report and Valuation
- 2015 Reinstatement Cost Assessment
- Occupational Lease Agreements dating the prior 10 years
- Aerial Imagery

This application has been submitted via the Planning Portal and includes planning application documents as listed above (PP Ref: PP-07134444).

In addition to the above, a payment of £462 will be made to the Council, which is the requisite fee for a LDC for the material change of use of the land and buildings at the site for industrial uses and commercial storage.

## 2 Planning Context

The site is located in Smallford, to the east of St Albans, comprising approximately 3.5 Ha in area. The site is an established employment site on the western side of Smallford Lane, opposite residential development on the north-western edge of Sleepshyde.

The site is bound to the east by Smallford Lane, a route connecting the A414 in the south to the A1057 in the north via Sleepshyde and Smallford. Open land lies adjacent to the west, south and north of the site, screened with mature landscape creating a strong sense of self-enclosure. Butterwick Brook runs close to the northern part of the western boundary of the site.

The property was constructed before the establishment of the modern planning system and comprises of 16 individual units including a mixture of commercial and storage uses. The total area for industrial buildings measures 1,862sq.m. The property is divided into 22 plots, each with its own hardstanding of either tarmac, concrete or compacted earth with fencing around the perimeter. The units are single storey units comprising of a steel frame construction with brick/blockwork enclosing walls with steel cladding roof coverings.

This submission is made under the Town and Country Planning Act 1990: Sections 191 and 192 as amended by Section 10 of The Planning and Compensation Act 1991, and the Town and Country Planning (General Development Procedure) Order 1995. This application seeks to establish the existing use of the site as industrial/commercial.

The enclosed evidence, as summarised below, demonstrates that a lawful development certificate should be granted as the use began more than 10 years before the date of this application and has been in continuous use since.

### 2.1 Planning History

The site is subject to a considerable planning history dating back to the 1980s, although we understand the premises was constructed as a whole before the establishment of the modern planning system. A summary of the planning history and a timeline of the site from 2000 – 2017 is provided below.

Below outlines the relevant planning history of the site.

**Table 1: Planning History of Site**

| Planning Ref | Decision Date | Description   | Decision |
|--------------|---------------|---|----------|
| 5/1979/1162  | 30/11/1981    | Established use certificate in respect of industrial class IV | Refused  |
| 5/1980/0732  | 30/11/1981    | Established use Certificate                                   | Refused  |

|                    |            |   |   |
|--------------------|------------|---|---|
| <b>5/1980/1283</b> | 25/11/1980 | Outline permission for redevelopment of redundant industrial site to provide new industrial site.   | Refused                                 |
| <b>5/1981/0055</b> | 23/02/1981 | Outline permission for redevelopment of redundant industrial site to provide industrial and warehousing accommodation.  | Refused                                 |
| <b>5/1982/0595</b> | 24/08/1982 | Redevelopment of an existing industrial site to replace in a more rational layout with suitable parking for commercial vehicles from an improved access and to provide more effective industrial buildings. | Refused                                 |
| <b>5/1982/1130</b> | 14/10/1982 | Unit 6, single storey workshop to replace fire damaged building.  | Refused                                 |
| <b>5/1983/0008</b> | 01/01/1984 | Unit 2, to hire, repair and overhaul of various types of contractor's plant.  | Approved                                |
| <b>5/1983/0382</b> | 01/01/1984 | Redevelopment of site for industrial purposes.  | Approved                                |
| <b>5/1988/0852</b> | 26/06/1988 | Development of business park, Class B1.   | Refused and Appeal dismissed 10/01/1990 |
| <b>5/1988/1880</b> | 10/01/1990 | Development of a business park Class B1.  | Refused                                 |
| <b>5/1994/1656</b> | 18/05/1995 | Certificate of Lawfulness (Existing) For B2, B8 and use for plant hire and builders yard.   | Refused                                 |
| <b>5/1983/0007</b> | 01/01/1984 | Parts Unit 1 and 1A – to manufacture various stone products to be used for re-facing of existing stone clad buildings.  | Approved                                |
| <b>5/1995/1564</b> | 04/04/1996 | Certificate of Lawfulness (existing) - Use of land for B2, B8 purposes and as a plant hire depot and builders yard.   | Refused                                 |
| <b>5/1997/1000</b> | 24/07/1997 | Directional sign.   | Approved                                |
| <b>5/2002/2112</b> | 26/04/2004 | New access road.  | Approved                                |
| <b>5/2009/0757</b> | 07/07/2009 | Discharge of Condition 2 (details of landscaping) of planning permission 5/02/2112 dated 26/04/04 for a new access road   | Approved                                |
| <b>5/2017/2393</b> | 13/01/2017 | Certificate of Lawfulness (existing) - New access road  | Approved                                |

Of particular significance is the approval of the new access road in 2004 (Ref: 5/2002/2112). The Officer's Report, included at Appendix 1 recognises the existing uses of the site, it states:

*"The land is used as depots for the storage of vehicles, plant, machinery, and materials, this use having taken place for many years."*

The report further went on to explain that, whilst the existing uses on the site had not benefited from planning permission, no enforcement action may now be taken, due to the passage of time. This recognised, 14 years prior to this application, that the existing uses had been established to the extent the enforcement action could not be taken i.e. a continuous period of more than 10 years.

There is no operative consent available to confirm that the use of the site as existing has become established under the planning acts. The existing and lawful use (storage and distribution use class B8) has been in use for more than 10 years.

### 3 Legal Framework

This submission is made pursuant to Sections 191 and 192 of the Town and Country Planning Act 1990 (as amended). Specifically, paragraph 2(a) to Section 191 states “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)”

Section 171B (Time Limits) of the Town and Country Planning Act 1990 introduces statutory time limits for the undertaking of enforcement action by a local planning authority. Paragraph 3 to the aforementioned section sets the relevant timescale pursuant to this application at 10 years.

#### 3.1 Assessment of Evidence

The existing site comprises a series of buildings (16 in total) which consist of a mixture of commercial and storage uses. The lease schedule of these units covering the prior 10 years is listed in Table 3, with electronic copies of the leases included at Appendix 6. The current tenants and size of the units are listed in the table below (taken from Report and Valuation 2013, see Appendix 2).

**Table 2: Unit Accommodation**

| Unit             | Use                        | Built Form (sqm) | Yard (sqm) |
|------------------|----------------------------|------------------|------------|
| Unit 1A          | Warehouse / Yard           | 155.15           | 2,227.35   |
| Unit 1B          | Yard                       |                  | 2,166.13   |
| Unit 1C          | Yard                       |                  | 737.47     |
| Unit 1D          | Yard                       |                  | 486.63     |
| Unit 2A          | Yard                       |                  | 994.62     |
| Unit 2B          | Yard                       |                  | 958.48     |
| Unit 2E          | Office / Yard              | 181.53           | 245.82     |
| Unit 3           | Warehouse / Storage / Yard | 657.48           | 204.67     |
| Unit 3A          | Yard                       | 306.86           | 520.26     |
| Unit 4           | Workshop / Yard            | 90.12            | 1,104.8    |
| Unit 5           | Office / Workshop / Yard   | 345.04           | 2,516      |
| Unit 6           | Office / Yard              | 125.7            | 1,241.74   |
| Unit 7A          | Yard                       |                  | 981.06     |
| Unit 7B          | Yard                       |                  | 891.87     |
| Unit 7C, 7D & 14 | Yard                       |                  | 1,580.47   |
| Unit 9           | Yard                       |                  | 1,382.96   |
| Unit 10B         | Yard                       |                  | 1,741.1    |
| Unit 11          | Yard                       |                  | 3,900.26   |
| Unit 12          | Yard                       |                  | 867.53     |
| Unit 15          | Yard                       |                  | 1,517.57   |

|              |                 |                  |
|--------------|-----------------|------------------|
| <b>TOTAL</b> | <b>1,861.87</b> | <b>26,266.78</b> |
|--------------|-----------------|------------------|

Table 2 establishes the amount of built form and hard surfaces on the site. The site area for the leased units totals approximately 28,120sq.m, with common parts bringing the total site area to approximately 32,760sq.m (Appendix 5 page 8).

The precise location of built form recorded is as set out on the site plan found at page 10 to the 2013 Report and Valuation found at Appendix 2. This plan is replicated on page 9 to the Reinstatement Cost Assessment 2009 found at Appendix 3, page 9 of the 2012 Reinstatement Cost Assessment included at Appendix 4, and page 10 of the 2015 Reinstatement Cost Assessment included at Appendix 5. Each of these are supplemented by a range of site photographs taken shortly before the completion of each report. Appendix 7 additionally contains a series of aerial images, dating from 2000 to present day, showing a continuous use of the site for a range of industrial and storage & distribution uses across this period.

Throughout this period each of the units have been continuously leased, allowing for negligible points of vacancy between subsequent leases being agreed, to a range of industrial operators. Critically, the use of the land has not ceased between different commercial operators. The headlines for these leases are detailed in Table 3, with the occupational lease agreements provided at Appendix 8.

**Table 3 – Summary of Lease Agreements by Unit**

| <b>Premises</b> | <b>Tenancies</b>  |
|-----------------|---|
| Unit 1          | Lease to SGB Services Ltd from 24.06.01 to 23.06.06. (#1)<br>Lease to SGB Services Ltd from 24.06.06 to 23.06.08. (#1)  |
| Unit 1A         | Lease to Screwfast Foundations Ltd from 05.08.11 to 04.08.16. (Surrendered 03.08.12)<br>Lease to Versatile Utilities Ltd from 03.08.12 to 02.08.17.<br>Lease to Versatile Utilities Ltd from 03.08.17 to 02.08.22   |
| Unit 1B         | Lease to Screwfast Foundations Ltd from 21.07.08 to 20.07.09. (Surrendered 08.04.09)<br>Lease to Durrow Plant Ltd from 08.12.09 to 07.12.14.<br>Licence (Part) to European Nursing Agency Ltd from 31.10.11.<br>Lease to C J O'Shea (Plant Hire) Ltd from 12.04.13 to 11.04.18.<br>Lease to C J O'Shea (Plant Hire) Ltd from 12.04.18 to 11.04.23.  |
| Unit 1C         | Lease to K P Waste Co Ltd from 11.01.11 to 10.01.13.<br>Lease to K P Waste Co Ltd from 11.01.13 to 10.01.15.<br>Licence to Smallford Supplies from 17.03.15 to 16.04.15.<br>Lease to Dowra Ltd from 13.01.16 to 12.01.21. (T. Wound Up Sept. 2016)<br>Lease to Glyn Hopkin Ltd from 27.09.16 to 04.03.24.   |
| Unit 1D         | Lease to POWER2000.com Ltd from 25.03.13 to 24.03.18. (Surrendered 17.05.17)<br>Lease to Glyn Hopkin Ltd from 18.05.17 to 04.03.24.   |
| Unit 2A         | Lease to Generator Power Ltd from 31.01.02 to 30.01.07.<br>Lease to Generator Power Ltd from 31.01.07 to 30.01.12. (Lease ended Feb. 2009)<br>Lease to Shaca Construction Ltd from 21.07.10 to 20.07.15.<br>Lease to Heydon & Carr Ltd from 21.07.15 to 20.07.20.   |
| Unit 2B         | Lease to Giffen Group plc from 04.08.04 to 03.08.09.<br>Lease to Giffen Group plc from 04.08.09 to 03.08.14. (T. ended Lease on 11.10.11)<br>Lease to Giffen Group plc from 11.10.11 to 11.12.11.<br>Lease to K P Waste Co Ltd from 02.05.12 to 01.05.13.<br>Lease to K P Waste Co Ltd from 02.05.13 to 01.05.15.<br>Lease to K P Waste Co Ltd from 02.05.15 to 01.05.17.<br>Lease to K P Waste Co Ltd from 02.05.17 to 01.05.22. |
| Unit 2E         | Lease to European Nursing Agency Ltd from 27.07.05 to 26.07.10.<br>Lease to European Nursing Agency Ltd from 27.07.10 to 26.07.15. (T ended Lease 04.01.13)   |

|          |   |
|----------|---|
|          | Lease to The Morton Charitable Trust from 16.04.13 to 15.04.15. (Lease ended Nov. 2014)<br>Lease to Versatile Utilities Ltd from 21.11.14 to 20.11.19.  |
| Unit 2F  | Lease to Tim Merritt from 14.10.15 to 13.10.17. (#2)<br>Lease to Laross Hair Products Ltd from 14.10.17 to 13.10.22. (#2)   |
| Unit 3   | Lease to Highways Surfacing Ltd from 10.05.06 to 09.05.11. (T. ended lease 10.05.2007)<br>Lease to JJ Roofing Supplies Ltd from 17.06.11 to 16.06.16. (Surrendered 22.04.15)<br>Lease to ROL Construction Ltd from 22.04.15 to 21.04.20.  |
| Unit 3A  | Lease to JDC Systems Ltd from 13.01.06 to 12.01.11. (Lease ended Sept. 2008)<br>Lease to Church Scaffolding Ltd from 20.10.08 to 19.10.13. (T. ended lease on 26.03.09)<br>Licence to Occupy to Screwfast Foundations Ltd from 18.09.09<br>Lease to Screwfast Foundations Ltd from 04.11.09 to 03.11.14. (Surrendered 03.11.14)<br>Lease to 2W Construction Ltd from 17.03.15 to 16.03.20.                          |
| Unit 4   | Lease to Anthony Michael Clayton from 25.03.03 to 24.03.08.<br>Lease to Anthony Michael Clayton from 25.03.08 to 24.03.13.<br>Lease to Anthony Michael Clayton from 25.03.13 to 24.03.18.<br>Lease to Anthony Michael Clayton from 25.03.18 to 24.03.23.  |
| Unit 5   | Lease to Smallford Supplies Ltd from 01.04.05 to 31.03.10.<br>Lease to Smallford Supplies Ltd from 01.04.10 to 31.03.15.<br>Lease to Smallford Supplies Ltd from 01.04.15 to 31.03.20.  |
| Unit 6   | Lease to K P Waste Co Ltd from 28.01.02 to 27.01.07.<br>Lease to K P Waste Co Ltd from 28.01.07 to 27.01.12. (T. ended lease on 16.03.2011)<br>Lease to P N Daly Ltd from 01.12.11 to 30.11.16. (Surrendered 05.03.14)<br>Lease to Glyn Hopkin Ltd from 05.03.14 to 04.03.19.   |
| Unit 7A  | Lease to Smallford Supplies Ltd from 01.04.05 to 31.03.10.<br>Lease to Smallford Supplies Ltd from 01.04.10 to 31.03.15.<br>Lease to Smallford Supplies Ltd from 01.04.15 to 31.03.20.  |
| Unit 7B  | Lease to Smallford Supplies Ltd from 01.04.05 to 31.03.10.<br>Lease to Smallford Supplies Ltd from 01.04.10 to 31.03.15.<br>Lease to Smallford Supplies Ltd from 01.04.15 to 31.03.20.  |
| Unit 8   | Lease to Screwfast Foundations Ltd from 15.06.05 to 14.06.10. (#3)<br>Lease to Screwfast Foundations Ltd from 15.06.10 to 14.06.15. (#3)<br>Lease to Screwfast Foundations Ltd from 15.06.15 to 14.06.17. (#3)<br>Lease to Grand Cars Ltd from 27.09.17 to 26.09.22.  |
| Unit 9   | Lease to Michael Alan Price from 24.06.01 to 23.06.06.<br>Lease to Rahilly Plant Services Ltd from 23.02.07 to 22.02.12. (Lease ended in 2010)<br>Lease to Rahilly Plant Ltd from 25.03.10 to 24.03.15.<br>Lease to Rahilly Plant Ltd from 25.03.15 to 24.03.20.  |
| Unit 10B | Lease to Miskin Plant & Tool Hire Ltd from 10.03.04 to 09.03.09. (Lease ended 2006)<br>Lease to CRH Fencing Ltd from 17.11.06 to 16.11.11.<br>Lease to CRH Fencing & Security Group (UK) Ltd from 17.11.11 to 16.11.16.<br>Lease to CRH Fencing & Security Group (UK) Ltd from 17.11.16 to 16.11.21.  |
| Unit 11  | Lease to Coffey Construction Ltd from 29.09.05 to 28.09.08. (T. ended lease 31.03.07)<br>Lease to Ground Construction Ltd from 05.07.07 to 06.07.12.<br>Lease to HDD Plant Hire Ltd from 01.11.12 to 31.10.17.<br>Lease to HDD (UK) Ltd from 01.11.17 to 31.10.22.  |
| Unit 12  | Lease to CRH Fencing Ltd from 14.11.05 to 13.11.10. (Surrendered March 2007)<br>Lease to Coffey Construction Ltd from 23.03.07 to 22.03.12. (Surrendered 31.03.2009)<br>Lease to Screwfast Foundations Ltd from 31.03.09 to 30.03.14. (Surrendered 06.06.13)<br>Lease to R Borrás Construction Ltd from 06.06.13 to 05.06.16.<br>Lease to Borrás Construction Ltd from 06.06.16 to 05.06.19. (Surrendered 25.11.17) |

|         |   |
|---------|---|
|         | Lease to Preston Paving (UK) Ltd from 01.12.17 to 30.11.22.   |
| Unit 15 | Lease to Mark Anthony Walker from 21.12.05 to 20.12.10.<br>Lease to ROL Construction Ltd from 12.12.11 to 11.12.16.<br>Deed of Variation to ROL Construction Ltd extending lease to 11.12.18. |

**Notes:**

(#1) – Unit 1 was divided up during 2008 to form Unit 1A, Unit 1B, Unit 1C, and Unit 1D, to allow construction work on phase 1 of the new access road to be carried out which commenced in April 2009.

(#2) – Unit 2F formed part of Unit 6 until March 2014.

(#3) – Unit 8 was known until June 2017 as Units 7C, 7D, & 14.

As detailed in Table 3, the site has experienced a range of occupiers for a continuous period over the previous 10 years. These operators comprise a range of storage and distribution businesses under B8 uses. The site operates as a single unit with a shared access and common welfare facilities.

#### 4 Conclusions

This submission is made under the Town and Country Planning Act 1990: Sections 191 and 192 as amended by Section 10 of The Planning and Compensation Act 1991, and the Town and Country Planning (General Development Procedure) Order 1995. This application seeks to establish the existing use of the site for storage & distribution uses (B8 use class). The LDC for existing use should be granted as the use which began more than 10 years before the date of this application.

The submission of this LDC establishes the lawful use of the site for B8 uses with the scale of built form and storage yards confirmed. In particular, evidence has been provided that demonstrates commercial operators of the site have not ceased at any point over the preceding ten years. In light of this irrefutable evidence, there should be no impediment to the issuing of a LDC within the requisite determination deadline.

We trust that the documentation presented in support of the application proposals is both clear and sufficient to register this application at the earliest opportunity. Should you require any further information or should there be any queries associated with the application documentation, we would be grateful if you could contact us.

Yours sincerely,



**David Churchill**  
Partner

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