

1st May 2021

Gravesham Borough Council Civic Centre
Planning Department
Windmill Street
Gravesend
Kent
DA12 1AU

Dear Sirs,

Little Acres, Longfield Avenue, Gravesend, Longfield, Kent, DA3 7LA
Application for Certificate of Lawfulness to confirm that the site falls within Use Class C3

Site Description

The site lies within the settlement of New Barn, on the boundary between Dartford and Gravesham Borough. The site is accessed from Longfield Avenue which runs to the south and there are properties to the east and west and a cul-de-sac development to the west. The site is within walking distance of New Barn centre and the primary school and other facilities via a safe pedestrian route.

The site itself is bounded by a high brick boundary wall to the north with two sets of gates providing access to and from Longfield Avenue. The main property is a one and half storey detached dwelling that site centrally within the site with a further detached building of similar height located to the east. Two mobile homes are located to either side of these buildings, near to the eastern and western boundaries.

A large area of hardstanding is located to the rear and front of the property with a further area of garden located adjacent to the paddock that lies beyond to the north.

A roadway runs along the eastern boundary fronting onto which are a number of structures and buildings and this leads northwards to a stable complex building, yard and sand school.



The exact configuration of buildings are as follows:

Building No:

1). 64.43sq.m.	Approx. volume = 207m ³
2). 7.11sq.m.	Approx. volume = 14m ³
3). 9.14sq.m.	Approx. volume = 18m ³
4). 75.83sq.m.	Approx. volume = 307m ³
5). 1.74sq.m.	Approx. volume = 3.5m ³
6). 7.42sq.m.	Approx. volume = 15m ³
7). 7.30sq.m.	Approx. volume = 14.5m ³
8). 105.14sq.m.	Approx. volume = 293m ³
9). 2.14sq.m.	Approx. volume = 3.21m ³
10). 9.16sq.m.	Approx. volume = 18.32m ³
11). 43.94sq.m.	Approx. volume = 123m ³
12). 8.89sq.m.	Approx. volume = 17.78m ³
13). 63.56sq.m.	Approx. volume = 190.7m ³
14). 41.78sq.m.	Approx. volume = 120m ³
15). 33.67sq.m.	Approx. volume = 113.13m ³
16). 42.09sq.m.	Approx. volume = 126.3m ³
17). 39.58sq.m.	Approx. volume = 130.6m ³
18). 82.5sq.m.	Approx. volume = 335m ³

Each of the above buildings is used in association with the main dwelling, such as vehicle maintenance and storage.

This is confirmed by way of the Planning History below.

Planning History

20190003

Demolition of garage, outbuildings and removal of two mobile homes and the erection of detached chalet bungalow with associated car parking and garden and the use of existing stable block, sand school and paddock for equestrian purposes, including the enlargement of the paddock area and the formation of a new access from Longfield Avenue.

Approved – 6th April 2020

20160942

Application for a Lawful Development Certificate in respect of the continued use of land and buildings for domestic purposes ancillary to the main dwelling.

Withdrawn – 25th November 2016

20160920

Application for a Lawful Development Certificate in respect of the continued use of land as domestic garden ancillary to the main dwelling.

Approved – 24th April 2017

20140129

The change of use of land to the stationing of caravans for residential purposes for 4no. gypsy pitches together with the formation of hardstanding and utility/dayrooms ancillary to that use.

Refused – 11th April 2014

Appeal Dismissed – 6th January 2016

20140051

Erection of a detached storage building at the rear.

Approved – 30th May 2014

20100810

Relocation and retention of the mobile home on a permanent basis as ancillary accommodation.

Temporary Approved – 16th March 2011

20100811

Retention of the six metal containers for storage of household and personal goods.

Refused – 21st February 2011

Appeal Allowed – 20th January 2012

20090299

Retention of two caravans

Temporary Approved – 16th June 2009

20080987

Application for the variation of condition 2 of planning permission ref. no. GR/20060896 relating to the erection of a detached bungalow with detached garage, to allow the continued use of the garage as a games room/leisure area.

Approved – 15th June 2009

20060896

Detached bungalow with detached garage and amenity space.

Approved – 13th November 2006

Considerations

The purpose of Section 191(1) is to enable any person who wishes to find out whether any existing use of building or other land is lawful to make an application to the local planning authority for that purpose. Section 191(4) provides that if the local planning authority are supplied with information satisfying them of the lawfulness at the time of application of the use or operations described, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application. The burden of proof relies on the applicant.

In the case of this Certificate of Lawfulness, the application relates to the site as falling within Use Class C3 over the last ten years. Therefore, evidence has been provided to show that the site comprises a C3 use from April 2011.

Having established that this Certificate of Lawfulness relates to the “ten year rule”, we now turn attention to the evidence.

The Planning Officer’s Report relating to 20190003 provides a detailed overview of the site (this can be found on the Council’s website):

2010

The site was visited on 29 April 2010 regarding the alleged use of buildings for vehicle repairs and for storage purposes. Mgs Cook advised that the building was used for the storage and repair of their own vehicles, and that they wanted to retain the containers for their own storage purposes, but that there were no commercial storage activities. A site visit was arranged for 17 May 2010 to discuss the retention of the containers. Following this meeting Mr Cook rang to say that the containers would be moved as they wished to move the mobile home unit, the permission for which was due to lapse on 31 July 2010. A further site visit was undertaken on 14 June 2010 when Mr Cook said that he needed to retain the mobile home for his son and daughter in law as there was no room in the main dwelling and consequently they would need to move the containers but he still needed to retain them for personal storage.

20100811

The Council had served a Planning Contravention Notice on Mr Cook on 15 October 2009 which culminated in an application for the retention of 6no. storage containers that had been on site for some considerable time. The containers were originally brought to the site in 2006 and were used for the storage of the applicant’s household furniture and goods whilst they constructed the chalet bungalow. They were at this time living in a mobile home and touring caravan located on the site. Progress on the dwelling progressed very slowly but was finally ready occupation in 2009. The containers however remained but were moved in 2010 to facilitate the relocation of the mobile home unit but remained adjacent to the eastern boundary. They were inspected by Planning Enforcement on several occasions and by the time of the application were considered no longer used for the storage of furniture. Some contained trotting rigs, harnesses and other horse paraphernalia. The others appeared to be used for miscellaneous storage by the applicants.

The containers were painted bright blue and were highly visual in the landscape and considered to be inappropriate development in the Green Belt. The applicant was requested to provide evidence as to why he required so many but only maintained that he needed lockable and secure storage for his caravan, trotting rigs and harnesses. These appeared to only occupy two of the units and the applicant failed to provide any further very special circumstances to override the long established protection policies. He did however subsequently paint the containers brown to lessen their visual impact.

November 2012

On 8 November 2012 the council received an allegation regarding the use of the stables for commercial livery purposes, the use of the containers for commercial storage and the breeding of animals, including the erection of various buildings. When the site was visited on 14 November 2012 the stables which contained 9 trotting ponies. No show jumpers were observed. Several new buildings that had not been seen on previous visits were noted. One was used to house bantams and other show

chickens, and a larger tin shed and small kennel were used to house dogs. There were also two new stables. All these buildings were within the residential curtilage and were regarded as being Class E outbuildings for which permission was not required. There were no obvious signs that any of the animals were being kept for commercial purposes. Finally it was noted that the 6 storage containers were still on site but as the temporary permission was still extant (until 20 January 2013) no action was necessary. On the basis of this inspection it was concluded that there were no commercial activities at the site and the case was closed.

July 2013

A further visit was made on 18 July 2013 when it was noted that the signage had been removed and most of the ponies had gone. Mr Cook confirmed that the ponies had been sold at horse fairs, and that he followed the gypsy tradition of trading in horses. He confirmed that he was not breeding horses as a commercial enterprise. In this regard it was accepted that when the site was visited the number of horses always varied but that no foals had been observed. There was only one touring caravan at the site that belonged to the family and was used when they were travelling to the fairs. The mobile home still had not been returned to the site but the containers had gone and compliance achieved. Again no breach of planning control was observed.

2014

On 20 February 2014 two further enforcement allegations were received regarding a further mobile home being brought to the site and a scaffolding company operating from the stable area. The site was visited by Enforcement Officers on Monday 24 February 2014 and although Mr & Mrs Cook were not on site access was allowed by one of their children. It was confirmed that a scaffolding company Hyscaff was storing vehicles and scaffolding in a yard area to the stables and that a mobile home unit had been placed back on the site of the original temporary permission adjacent to the eastern boundary. Mr Cook confirmed that the scaffolding was one of his companies. He said that the fencing to his existing yard had been damaged in the recent storms and it was at Little Acres for secure storage until this was repaired. He said that it would be gone in 3 weeks. Asked about the caravan, he confirmed that it was part of the application submitted by Matthew Green.

In addition to the above, the Planning Officer summarised the consultation feedback from neighbouring residents:

Neighbouring Properties

The application has been advertised on site and by individual letters to 42 neighbouring properties. One letter has been received regarding the most recent plans. Main concerns:

- the site is within the green belt and should not be considered for development. The tables have been in the same place for a while without a road. A road will encroach on the green belt. The stables are being used as a car body repair shop. The two entrances have been sufficient to allow static caravans to pass and horses do not need a road.

Objections to the previous application raised the following concerns:

- Impact on the green belt and the natural beauty of the surrounding area
- Change of character to the road

- Additional traffic
- Concerns regarding the current use of the site
- Concerns regarding a new access to the stable buildings
- Google earth shows cars being stored on site

One letter in support (two letters from the same address):

In principle I would not object to the siting of the four dwellings in the position shown on the plans as they follow the site lines front and rear to the existing houses in Longfield Avenue. This is on proviso that :-

- The two mobile homes are removed from the site.
- The curtilage is not extended from the last application (lawful development).
- The track to the so called stables at the bottom of the garden should be returned to a single width track and the rest returned to paddock/grass.
- No more out buildings should be built outside the curtilage and any existing buildings including the stables not be used for commercial purposes, e.g. Car restoration and self storage businesses.

This is Green Belt land and this should be maintained.

Two objections regarding increase in traffic (from the same address).

One further objection raising no objection but raising concerns regarding the ancillary buildings and storage containers that will remain and used to house other families. We should be grateful if you could confirm which existing buildings and mobile homes will remain and if so, for what purpose.

Longfield and New Barn Parish Council

Objected to the original application but have not responded regarding the amended application. Main concerns:

- Building of houses will be in contravention of the green belt
- Storage and other properties that may be built could be used for business work and/or
- other purposes which are likely to have an adverse effect on the residents of New Barn
- Increase in number of vehicles accessing the site
- Inappropriate development and an over-development of a green belt site
- There should be, at the very least, a restriction on business use

In support of Application Ref: 20160920 which was approved on 24th April 2017, the applicant provided a Statutory Declaration (which can be found on the Council's website). This stated the following:

"I can confirm that I have continuously used and maintained the land highlighted in blue at Exhibit WJC Document 1, as residential amenity land in connection with the main dwelling during my ownership. The site is one private dwelling property. More specifically, I have used different parts of the property to (i) park private vehicles, (ii)

keep animals as pets connected to the main dwelling and (iii) erect buildings for internal storage and also outdoor storage. This is a non-exhaustive list.

Land immediately north of the dwelling has been mainly lawned and recently fenced for the younger children to play and not wander too far from the dwelling. However, previously this fence division between paddock and lawn did not exist or was in differing locations depending on the age of the children, the number of ponies onsite or the children's interaction between both areas. The current paddock area north of the lawned area has been used by my family for keeping their ponies, playing football and other games, and riding their push and motorised bikes. There is little to no difference between the use of both the immediate lawned area and paddock area at Little Acres. It was not my intention to separate uses by erecting a fence, but instead to keep my children/grandchildren and pets safe.

I note that like any large garden, the specific residential uses of the land has been compartmentalised and from south to north these can be identified as: immediate parking, residential dwelling and ancillary accommodation, storage, animal keeping and lawned garden, paddock for general play and horse keeping, menage, secondary parking and stable block. This compartmental approach does not reflect separate uses, but in fact are all uses in connection with the main dwelling and occupants of the main dwelling. For such a large garden this is the only approach to make it work for a multigenerational family and to ensure areas do not fall into neglect as it seems happened prior to my purchase of the property.

I confirm that the land highlighted blue at Exhibit WJC Document 1 has been used as a single residential unit with ancillary uses connected with the main dwelling. In my opinion, there is no separate uses on site and the property is one, as it was sold, and as is similar to neighbouring properties to the east of Little Acres. The address is just a large plot with an active large family making use of their home. I can confirm that the land in this Statement has been used as a single residential use with main dwelling and surrounding ancillary residential development, all in connection with the main dwelling. This has occurred for in excess of ten continuous years and at least during my ownership."

The Planning Officer's Report relating to 20190003, as seen on the Council's website, stated:

"The submitted Planning Statement states that the site can be considered positively under Green Belt Policy with the area of site subject of redevelopment representing an infill location. It goes on to say that the proposal can be considered an appropriate redevelopment or infill of previously developed land, an approach which is supported by para. 145 of the National Planning Policy Framework 2019. Part (e) is not applicable here as the site is not located within a village.

However, the Council is in agreement that the site can be classed as previously developed land in continuing use (part g). The application would involve the demolition of a substantial amount of outbuildings, sheds, caravans and a large garage/annexe.

The proposed development will see the loss of an extensive amount of buildings within this Green Belt location and their replacement with one dwelling. It is considered that

this accords with paragraph 145 (g) of the NPPF. Notwithstanding its Green Belt location, further restrictive and mitigating measures can be conditions, notably restricting use and the erection of further buildings on the site so that on balance, the proposal is considered acceptable in terms of character, appearance, amenities, parking and highway safety and is therefore recommended for approval."

Commentary

Taking all the information and evidence together, it is clear that the site as a whole falls within the definition of Use Class C3.

The previous planning applications have confirmed that the site comprises a single planning unit, with the most recent planning application attracting the following comment by the Planning Officer:

"the Council is in agreement that the site can be classed as previously developed land."

It is important to acknowledge at this juncture that the Planning Officer did not consider the site in different components but as a whole. Essentially, the Planning Officer did NOT conclude that only some elements or areas of the site fell within the definition of Previously Developed Land, but instead concluded that "the site", as a whole, comprised of Previously Developed Land and therefore Use Class C3.

It is important for the Decision Maker to understand that this Certificate of Lawfulness does not seek to challenge or put forward proposals against the National Planning Policy Framework paragraph 145(g) which states that "a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The same can be said for the Glossary of the National Planning Policy Framework which states that Previously Developed Land is land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed).

This Certificate of Lawfulness focusses purely on the legal definition and classification of the site.

The Planning History confirms the use of the site as a single planning unit, and confirms that the site, as a whole, falls within the definition of Use Class C3.

Conclusion

The site lies within the settlement of New Barn, on the boundary between Dartford and Gravesham Borough. The site is accessed from Longfield Avenue which runs to the south and there are properties to the east and west and a cul-de-sac development to the west.

Applications dating back to 2010 confirm the uses and activities across the site. In addition, the applicant's Statutory Declaration from 2017 reconfirms the single planning unit classification of the site.

We look forward to receiving a positive determination, though should you have any questions or require any further information, please do not hesitate to contact me.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'A Bateman', with a large, stylized initial 'A'.

Alex Bateman BA (Hons) MSc MRTPI