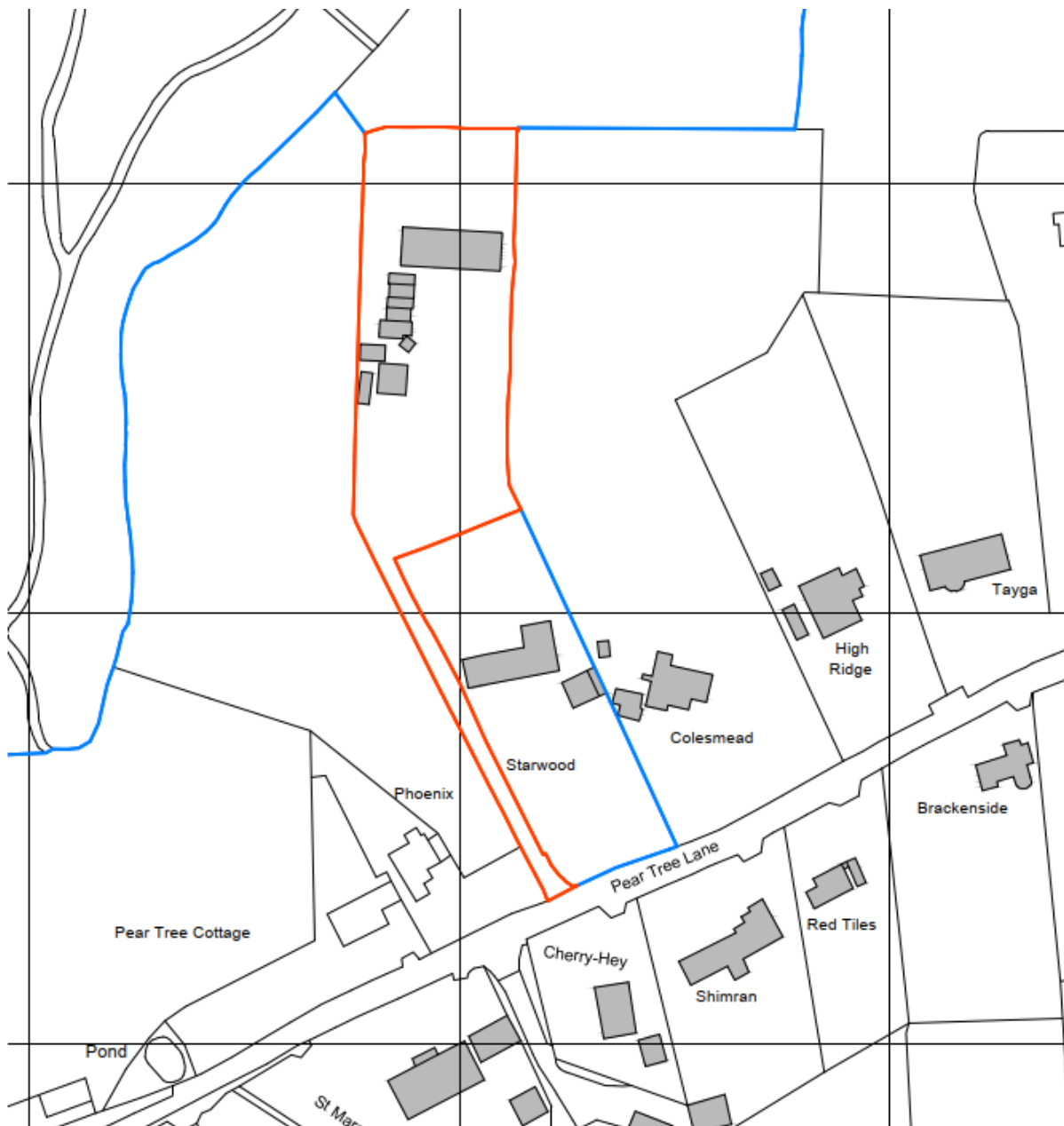

GSP PROJECT REF: [3837.PN](#)

PLANNING STATEMENT

STARWOOD, PEAR TREE LANE, SHORNE, KENT, DA12 3JU



MAY 2023

1.0 INTRODUCTION

- 1.1 This statement is prepared in support of an application under Section 191 of the Town & Country Planning Act 1990 for a Lawful Development Certificate for development involving a concrete framed building for residential purposes, falling within Class C3 of the Use Classes Order 1987 (as amended) at Starwood, Pear Tree Lane, Shorne, Kent, DA12 3JU (hereafter referred to as ‘the Site’).
- 1.2 The Land Registry titles affected by this development are as follows, although the building is only located within the latter, which is owned by the applicant:
- K654169 (described as land adjoining Starwood), and;
 - K424735 (described as Starwood).
- 1.3 The basis of this application is that the building was constructed more than four years ago and is therefore immune from any Enforcement Action under section 171(b) 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 four years beginning with the date on which the operations were substantially completed.”*
- 1.4 As is set out below the use of the land affected by the building and the land around it has already been confirmed to be in lawful residential use, hence the four-year rule applies in this case.

2.0 SITE CONTEXT

- 2.1 The existing Starwood curtilage comprises a large detached property on the northern side of Peartree Lane set within a 0.6 hectare plot of land, which forms part of the applicant’s wider site ownership that extends to another 10.2 hectare, inclusive of a 7 hectare woodland and 2.2 hectare paddock.
- 2.2 The existing dwelling is set back by a minimum of 50m from the highway and benefits from two vehicular accesses. One was recently constructed in 2018, as per planning permission 20171122, to provide a separate and direct access to the stable, tack room, feed store and storage containers that exist within the parcel of incidental paddock land that is the subject of this application.
- 2.3 A separate access to the subject 0.35 hectare parcel of land is therefore already in situ, as is the subject concrete framed building. A similarly sized building was the subject of a 2005 lawful development certificate, but was to be located on the higher ground to the west. In a subsequent application for a lawful development certificate, the land has been certified as being lawful garden land in connection with Starwood (see Planning History section below). The site is outside of the rural settlement of Shorne.

- 2.4 Beyond the site, there is the aforementioned paddock and woodland to the north that are both under the applicant's ownership, whilst the existing built form is part of a ribbon of housing along Pear Tree Lane to the south, all set within generous plots.

3.0 PLANNING HISTORY

- 3.1 The following applications are considered relevant to this application:

- [Application for Lawful Development Certificate in respect of the proposed erection of a stable block with tack and feed store and a hay barn within the residential curtilage.](#)

Ref. No: 20050529 | Status: Application Permitted. All built form was to be located within the residential curtilage. These buildings were to be located along the western boundary line, towards the rear NW corner of the site. The main stable block building was to be 22m long, 10m deep and 4m high.

- [Application for a Lawful Development Certificate in respect of the existing use of land and for residential purposes, falling within Use Class C3\(a\) of the Use Classes Order 1987 \(as amended\).](#)

Ref. No: 20210376 | Status: Certificate Granted. The application site related to the entire residential plot at Starwood and included the land that is the subject of this application. It certified that the lawful use of the land and existing buildings were residential, but it did not certify the lawful status of the concrete framed building

- [Demolition of existing stables and removal of containers and conversion of existing framed structure to form separate bungalow with three bedrooms plus erection of detached triple garage, additional conservatory, porch and use of existing access.](#)

Ref. No: 20220531 | Status: Application Refused on grounds relating to it being considered inappropriate development in the Green Belt.

- [Demolition of existing stables and removal of containers and conversion of existing framed structure to form separate bungalow with three bedrooms plus erection of detached double garage, additional single storey rear extension, front porch and use of existing access](#)

Ref. No: 20221342 | Status: Application Refused on grounds relating to it being considered inappropriate development in the Green Belt. GBC questioned the lawfulness of the existing framed building, which is the subject of this application.

4.0 EVIDENCE TO SUPPORT THE APPLICATION

- 4.1 The evidence in support of this application, which accompanies this statement, is as follows:

Doc	Description	Date
01	Site location plan	27 th March 2023
02	Existing Block Plan	27 th March 2023
03	Existing floor plan	27 th March 2023
04	Existing elevations	27 th March 2023
05	Aerial photography 2018	2018
06	Aerial photography 2020	2020
07	Aerial photography 2022	2022
08	Land Registry Register K424735	31 st March 2023
09	Land Registry Title K424735	31 st March 2023
10	GBC pre-application response ref PRE20200330	5 January 2021
11	Statutory Declaration by applicant (Mr Russell)	TBC
12	Statutory Declaration by applicant (Mrs Russell)	TBC
13	Statutory Declaration by builder (Mr Filmer)	TBC
14/15	Builder time recording sheets	18 th March to 18 th April 2019
16	Photograph of structure	30 th March 2019
17	Building material invoices and payments	11 th March to 11 th April 2019

5.0 TIMELINE OF THE EVIDENCE

- 5.1 The following is a timeline of the evidence to assist in the LPA's understanding of the evidence of the described operations having taken place more than four years ago:

DATE	DOC	SUMMARY OF KEY EVIDENCE
2005	08	Confirms the applicant has been the landowner since 2005
2018	05	Aerial confirms that the building was not presented at this time, which is consistent with the Statutory Declarations
2019	11-17	Confirms the period of construction up until 18 th April 2019
2020	06	Aerial confirms that the building was present at this time, which is consistent with the Statutory Declarations
2021	10	The LPA's pre-application response confirms that "it is also clear that the current open barn was built only 2 years ago"
2021	08	Aerial confirms that the building was present at this time, which is consistent with the Statutory Declarations
2022	07	Aerial confirms that the building was present at this time, which is consistent with the Statutory Declarations

6.0 KEY ISSUES

- 6.1 The key issues relate to whether the evidence and supporting information indicates that, on the balance of probabilities, the stated building has been present for 4 or more years, dating back to April 2019.
- 6.2 The Court has held (see *F W Gabbittas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or 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".

- 6.3 The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application of this nature.

Summary of the Evidence

- 6.4 A summary of the evidence is provided below:

- The applicant has owned the land that is the subject of this application since 2005;
- The aerial photographs confirm the building's presence in 2020, 2021 and 2022;
- The Statutory Declarations and referenced builder timesheets confirm the building was erected between 18th March and 18th April 2019;
- Copies of invoices confirm the purchase (and in some cases payment) of associated building materials during this time, with roofing materials forming the subject of the latter invoices;
- A photograph dated 30th March 2019 confirms the appearance of the structure at that time, with construction continuing beyond this. The photograph also includes a phone number (01474 569874) that can be cross-referenced with some of the invoices ('Discount Builders Merchants');
- The pre-application confirms the presence of the building following a site visit on 20 October 2020 and the follow-up written advice dated 5 January 2021 where the officer confirms that "it is also clear that the current open barn [that is the subject of this application] was built only 2 years ago", which would date back to January 2019, not materially dissimilar to the applicant's claim that it was constructed between March and April 2019;
- Collectively, the evidence confirms that the building has been present for longer than 4 years.

7.0 OTHER EVIDENCE

- 7.1 It is accepted that the applicant is responsible for providing sufficient information to support such an application. However, Planning Practice Guidance also makes clear that a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land.
- 7.2 As it stands, it is understood that there is no evidence that the local planning authority has to contradict or otherwise make the applicant's version of events less than probable, hence, there is no good reason to refuse the application.
- 7.3 However, in accordance with the PPG, the applicants wish to be made aware of any evidence that the Council considers is contradictory to the evidence provided by the

applicant, to enable the applicant the opportunity to comment on it and possibly produce counter-evidence, as required by the PPG.

8.0 CONCLUSIONS

- 8.1 It is considered that, on the balance of probabilities, the building, as set out in this application in connection with the continued use of a single dwellinghouse has been present throughout the last 4 years. The Council is therefore respectfully requested to grant a Certificate of Lawful Development.