

Mr David Elmore  
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Welwyn Garden City  
AL8 6AE

Langdale Planning Limited  
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26<sup>th</sup> January 2022

Dear David,

**Town & Country Planning Act 1990: Section 191 (as amended)**

**Application for a Lawful Development Certificate for outbuilding used in connection with main dwellinghouse at 51 Kentish Lane, Brookmans Park, Hertfordshire, AL9 6NG**

**Planning Portal Reference: PP-10560190**

On behalf of Mrs T Flammia, please find enclosed an application for a Lawful Development Certificate for an outbuilding in the rear garden of No.51 Kentish Lane, AL9 6NG pursuant to Section 191 of the Town and Country Planning Act 1990 (as amended).

This Certificate seeks to confirm that the existing outbuilding is lawful as it has been constructed and in use as such in excess of the requisite time period of 4 continuous years and is now immune from enforcement action.

The application comprises the following documents:

- Site Location Plan and Existing Plans. Ref – TDC068/CLE/100;
- This Covering Letter;
- Application Forms and Notices;
- Schedule of Photographs taken by the Applicant;
- Third Party Aerial Photographs from GetMapping;
- GetMapping Order Confirmation;
- Letter confirming date of Aerial Photograph taken in 2005 from GetMapping;
- Land Registry Document (with highlights) confirming the date of purchase of additional garden land on 9<sup>th</sup> July 2007; and
- Historic correspondence with the Council's Enforcement Officer dated 12<sup>th</sup> December 2007.

The application fee (£206) has been paid via the Planning Portal.

### **Existing Outbuilding**

The existing outbuilding is located along the rear boundary of the property at 51 Kentish Lane as shown on the accompanying plans. As originally constructed, it comprises a flat roof (3.6 metres at the highest point of the parapet and 3 metres to the highest point of the eaves). It also has a central roof lantern, which extends to a maximum height of 3.9 metres. It is formed of external render which has been painted in a dark grey colour. The front elevation has 4 no. powder coated aluminium framed doors. The outbuilding was completed on the 31st July 2004 and extends to 65 sqm. The outbuilding has been used for purposes incidental to the enjoyment of the main dwellinghouse at 51 Kentish Lane since its construction.

### **Summary of Evidence**

The outbuilding is incidental to the main dwellinghouse and therefore needs to have been in place for a period of four years to be lawful by virtue of time.

It is acknowledged that as per Section 191(4) of the Town and Country Planning Act 1990 (as amended), the onus rests upon the Applicant to demonstrate to the satisfaction of the Council that the use or operations described in the application would be lawful if instituted or begun at the time of the application. The courts have held that the relevant test of the evidence on such matters is on the 'balance of probability'.

The evidence that you have in front of you in support of this application clearly demonstrates that the outbuilding has been in situ continuously in an unchanged form for a period of 17 years, well in excess of the four year immunity from enforcement period and is lawful. This is corroborated by the enclosed evidence including aerial photographs from independent and reputable aerial photography company, GetMapping.

The images from GetMapping are also available to view on the GetMapping website ([www.getmapping.com](http://www.getmapping.com)) by searching with the site's postcode. Confirmation of the date of the GetMapping photograph taken in 2005 has been sought from GetMapping and this is provided in the enclosed letter from GetMapping. The dates of all other photographs are on the GetMapping website.

Photographs are also provided by the Applicant. Photographs 1 and 2 were taken by the Applicant in September 2006. At this time, the Appellant's rear garden was smaller in size and the boundary fence with the adjacent property at No.53 is clearly visible in the photographs. On 9<sup>th</sup> July 2007 the Applicant subsequently purchased an additional strip of garden land from the neighbouring residential property at No.53 Kentish Lane to enlarge the rear garden as evidenced by the enclosed Land Registry document. Photographs 3 and 4 taken by the Applicant in 2011 show the outbuilding within the enlarged the rear garden at the site. Photograph 5 is a more recent photograph of the outbuilding taken in autumn 2017.

Email correspondence is also provided from the Council's Enforcement Officer dated 12<sup>th</sup> December 2007 following a visit to the property, which states '*your planning application for a four metre high, mono-pitch roof structure at the end of your garden was returned because it did not require planning permission.....if it were not for the fact that the existing structure is now lawful by virtue of the four-year rule*'

I trust that everything is in order with the application and that you will be able to issue the requested Certificate. Please do not hesitate to contact me if there is anything further that you need.

Yours Sincerely,

Catherine Stephens MRTPI  
Director, Langdale Planning Limited  
Enc.