



Planning

Certificate Statement

Client:

James Ray

Sheerlands House

Sheerlands Road, Arborfield, Wokingham, RG40 4QX

S191 Application for respective use of buildings and land as office, workshop/storage, workshop/storage and open air storage use

Will Hossack **BSc MSc**

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Dated 16/07/2024**

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01 Introduction

- 1.1 This statement is produced to support a S191 application (Certificate of Lawful Development) for the use of a building as an office (Use Class E); Use of building as workshop and storage (Use Class B2/B8); Use of building as workshop and storage (Use Class B2/B8); land as a storage yard for storage (Use Class B8) at land adjacent to Westwood Cottage (Sheerlands House), Sheerlands Road, Arborfield, Wokingham, RG40 4QX.
- 1.2 For clarity, 'Sheerlands House' is the name of the office unit adjacent but separate to Westwood Cottage.
- 1.3 This planning statement will introduce the meaning of 'development' in accordance with the Town and Country Planning Act 1990, summarises the relevant legal tests and set out the application in light of these. The conclusion reached is that the development is lawful and so no enforcement action can be taken.
- 1.4 It is respectfully requested that the appendices accompanying this report are kept private and confidential for the use of the Local Planning Authority only, as they contain personal and private information about the applicant and occupants. This information is submitted as evidence to support the claims within this report.
- 1.5 In addition to this report, the application is accompanied by the appropriate certificate application forms, appendices and a 1:1250 Site Location Plan.
- 1.6 The relevant application fee will be submitted by the applicant separately.

02 Town and Country Planning Act 1990

- 2.1 Section 55(1) of the Town and Country Planning Act 1990 defines development as 'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'.
- 2.2 Section 171A 1(B) of the Town and Country Planning Act relates to the time frames in which enforcement action can be taken against breaches of planning control. This includes "*carrying out development without the required planning permission.*" Section 171B (3) relates to breaches of planning control consisting of "*in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach*".
- 2.3 Section 171B (3) therefore controls the relevant timeframe for the immunity from enforcement action, which means that a development in breach of a planning condition becomes immune from enforcement action after 10 years.
- 2.4 The dates to demonstrate the lawfulness of the change of use are from the date of the submission. In this case the use commenced in 1997, just over 17 years, specific detail about each planning unit has been expanded upon the main body of the text.
- 2.5 Circular 10/97 (Enforcing Planning Control) was archived in March 2014 and replaced by the National Planning Policy Guidance (NPPG). The NPPG reiterates the previous guidance of the Circular and in paragraph 006 states that "*the applicant is responsible for providing sufficient information to*

support an application, although 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”.

- 2.6 It is established case law (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.
- 2.7 The following section outlines the evidence submitted within the Appendices and explains how this evidences immunity from enforcement action.

03 Assessment of Submitted Evidence

- 3.1 **Appendix 1: Site History (Certificate Application 172689):** this appendix comprises the Decision Notice, Officer Report and supporting information that comprised part of previously refused certificate application ref. 172689 (decision date 06/11/2017). The application site comprised only part of this application.
- 3.2 It should be noted that this application had the development description of “...use of site for B1(a) business and ancillary storage uses”. The Officer Report for this refusal only assessed the development as submitted in the application form and the application site included the wider building yard at Westwood Yard, stating:

“The applicant (via the agent) states that the existing use is B1(a) business and ancillary B8 storage’ but by virtue of the use of the word ‘ancillary’, this means the uses for all the open storage on both land A and B are to be

considered associated with the stated office for the purposes of this lawful development certificate and cannot therefore be considered for a separate B8 use”.

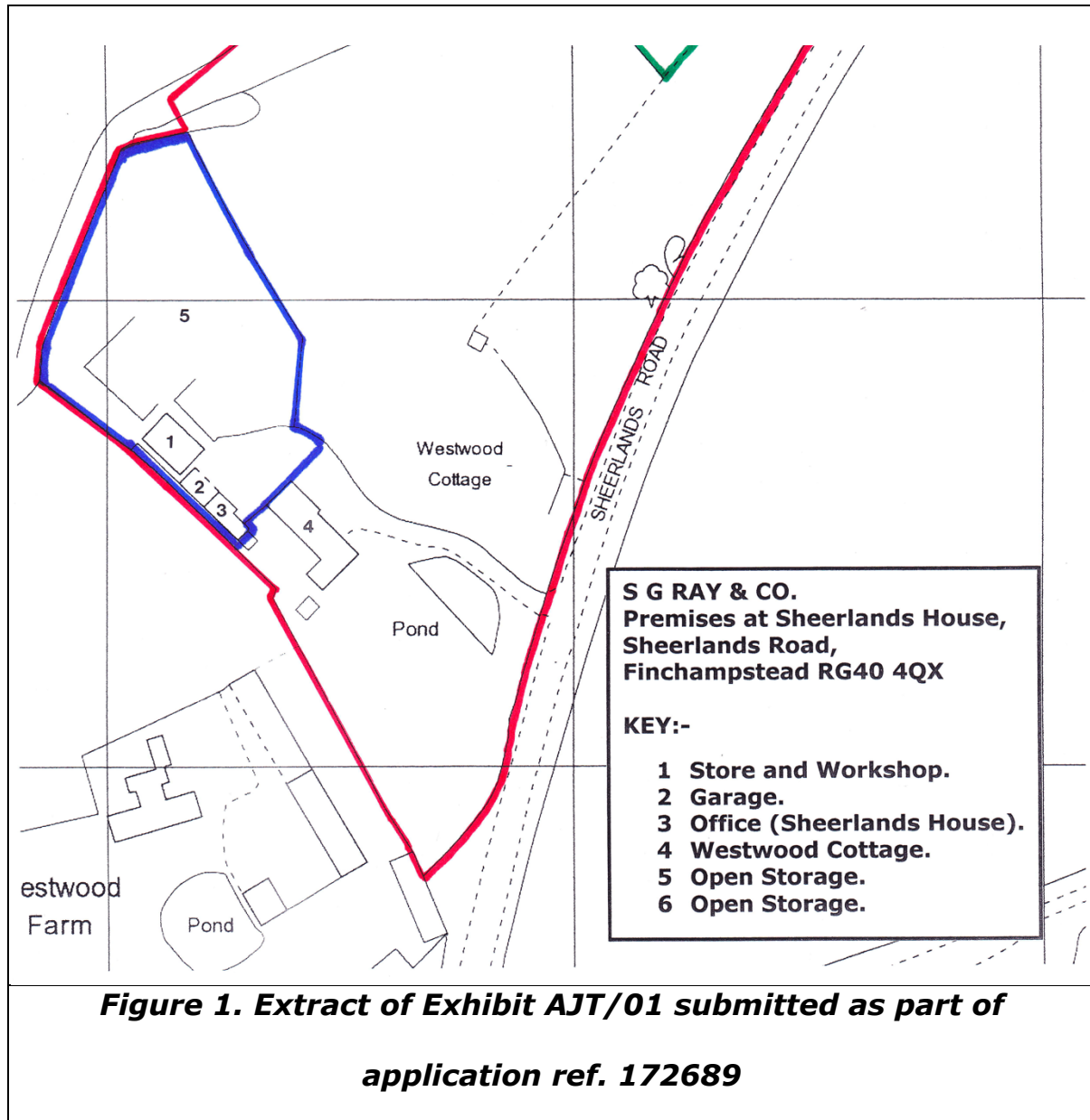
3.3 The Officer Report makes reference to the supporting document provided in the submission which refers to areas of the site as 'A' and 'B'. Site 'B' is the subject of this current Certificate Application.

3.4 This application was accompanied by respective statutory declarations from [REDACTED] (who has provided an updated declaration in Appendix 1) and [REDACTED] both dated 06/09/2017. Both attest that the company S G Ray & Co Ltd have occupied Sheerlands House since 1994 and that the land in Exhibit AJT/01 was also used continuously as stated since 1994.

3.5 The other evidence pertaining to 2017 application was only in relation to invoices addressed to Sheerlands House and the Council's Officer Report concluded:

“...the evidence is inconclusive in terms of how these refer to the site in terms of stated use's geographical location at Westwood Cottage”.

3.6 As such, the refusal of the previous 2017 is not indicative that the uses sought by this certificate did not exist at this time as the LPAs assessment is clear it only considered whether the site would fall within then Use Class B1(a) (with storage being ancillary) and considered there was insufficient information. This certificate has applied to address separate planning units for clarity.



3.7 Appendix 2: Statutory Declaration of [REDACTED] Dated 16/07/2024:

this appendix comprises an updated Statutory Declaration of [REDACTED] Enclosure 1 to the declaration features the map shown in figure 6 to provide clarity in relation to the submitted uses.

3.8 The declaration is clear and precise and acknowledges the separate business operations of SG Ray & Co Ltd and that of the site to the north-east. Notably, whilst SG Ray & Co Ltd was associated with the neighbouring

site since 1983 this was only through the contracted services provided by PPC Group – it was not the operator of the site. The use of the land immediately adjacent to Westwood Cottage (red line of this submission and blue line of figure 1 above) began in 1994 when the 'head office' of SG Ray & Co Ltd moved to site.

3.9 The uses are reflective of the main operation of SG Ray & Co Ltd occupying the site as its main office and the fact [REDACTED] lives in the adjacent dwelling of Westwood Cottage (and has done so since 1972).

3.10 Turning to the office use (Sheerlands House), the declaration is clear that the building first began its office use in 1994. Whilst this building would have formally been within the curtilage of Westwood Cottage this office use is not a home office incidental to the main dwelling and became known separately as 'Sheerlands House' (building 3 on enclosure 1).

3.11 The declaration further explains that the building features computers, desk, toilets and a kitchen area for staff and employees regularly attend site, business rates to use the building as an office have also been paid to WBC in this time.

3.12 The declaration is clear that invoices and paperwork concerning deliveries for SG Ray & Co Ltd may use the two addresses interchangeably owing to materials and plant being stored on the wider land formerly associated with the residential use of Westwood Cottage.

3.13 In relation to the wider storage use of the land the declaration is clear that this has been used since the inception of the office use (since 1994) but does acknowledge this was relatively small scale to begin with storing

vehicles and fabricating materials only along the north-western site boundary.

3.14 However, as the business operation grew so did its storage requirements and this resulted in larger vehicles and amounts of material being kept on site (reflective of the size of the jobs and wider operation of the business). The declaration states this began around the year 2000.

3.15 The declaration clarifies that building 1 was initially an open roofed structure (connected walls enclosing two portacabins) however, in 2013 a roof was constructed to enclose the building and became used as a workshop for metal welding. Welding is an essential part of the business operation as materials are required to be pre-fabricated prior to their distribution to site. On an ad hoc basis this workshop was and is used to repair vehicles (associated with the business operation and not for other off-site vehicles) and plant repair when required, owing to 'wear and tear'.

3.16 Building no.2 is attached to 'Sheerlands House' and was built at the same time as building 3 (it was previously an incidental garage to the main dwelling). This building features a smaller workshop and is used for fusion welding (this is largely plastic based and different in nature to the metal welding that takes place in building 1) however, it has been primarily used for the storage of vehicles and plant machinery/equipment.

3.17 The statutory declaration is clear that all of these uses begun in 1994 when SG Ray & Co Ltd began occupying the complex of buildings (except for building 1 where the roof was constructed in 2013).

3.18 A Statutory Declaration can be relied upon as **true, clear and unambiguous** and the declaration is clear that the uses have existed in excess of 10 years. This appendix can be given **significant weight** in the absence of any conflicting evidence.

3.19 **Appendix 3: Series of invoices addressed to S G Ray & Co Ltd Sheerlands House Sheerlands Road Finchampstead RG40 4QX dated 27/03/2014 – 25/04/2024:** this appendix comprises a series of invoices which all address Sheerlands House as an invoice address associated with SG Ray & Co Ltd.

3.20 Whilst it is still the case that the applicant attests the uses have existed since 1994 on site, this appendix only goes back for a 10-year period, and this has been done for the sake of brevity as it demonstrates the required timeframes of S171B regardless.

3.21 These invoices consistently address SG Ray & Co Ltd at Sheerlands House. Some invoices contain delivery addresses which were different to the invoice address also state "SG Ray & Co Ltd Westwood Cottage". In any case this shows that SG Ray & Co Ltd have operated from the site in this time (including the delivery of materials).

3.22 The types of invoices include a range of services such as: equipment hire, purchase of materials and hiring of additional labour.

3.23 It should be noted the Officer Report in Appendix 1 (2017 refusal) acknowledged then provided invoices from 2007 – 2017 but only considered this to be inconclusive "*in terms of how these refer to the site in terms of stated use's geographical location at Westwood Cottage*".

3.24 The fact that all invoices in this submission (specifically applying for an office use for the building) are related to the administrative function of the business only serves to demonstrate the use of Sheerlands House as an office in excess of ten years.

3.25 The invoices also pertain to delivery of materials to the site, in the instances where these invoices state for materials are/were to be collected they still detail the address of Sheerlands House and its association with SG Ray.

3.26 Alone these invoices demonstrate the presence of Sheerlands House over 10 years, in conjunction with other evidence stating the delivery address of Sheerlands House this appendix supports the assertion of the overall business operation (including the storage and workshop uses) being present at the site (as materials could not be stored in the office nor fully within the other buildings). These invoices should be given **significant weight** in confirming the locational relevance of the uses on the site.

3.27 **Appendix 4: Aerial Photograph dated 1999 – 2022:** this appendix comprises 10 aerial images which are publicly available via Google Earth.

3.28 It is acknowledged that aerial images are only a singular snapshot in time however, the images clearly show the storage of materials since 1999 – 2022.

3.29 The first image is from 1999 and shows the storage of materials along the north-western boundary. The subsequent images also corroborate this. It is noted the 2003 image does not show materials in this location and shows storage of what appears to be a vehicle instead. However, similar materials are shown on site in the 2004 image onwards. Whilst some images are of

lower quality (particularly the 2014 image), the stored materials can still be seen.

3.30 The images prior to 2013 clearly show no roof on building 1 and detail the storage of material within the confines of the structure. Images post-2013 show the building with a roof.

3.31 It is noted that the materials appear in different locations at different times however, as stated in Appendix 1, the need and size of materials fluctuates dependent upon differing jobs and materials would go both to and from the relevant sites SG Ray was contracted to work on.

3.32 Buildings 2 and 3 are clearly visible in all images. Whilst the images are unable to show the internal use of the buildings they confirm the presence of all buildings well in excess of 10 years.

3.33 Notwithstanding the above, the images show the use of land for B8 storage since 1999. Whilst the images do not have continuous consecutive dates in conjunction with other evidence provided that has detailed the wider operation of the site these images should be afforded **significant weight** in considering the balance of probabilities.

3.34 **Appendix 5: Companies House Document:** the final appendix comprises a copy of the earliest publicly available information regarding SG Ray & Co Ltd.

3.35 The document comprises an annual return from 1995 and confirms the registered office of the company as 'Sheerlands House, Sheerlands Road, Finchampstead, Wokingham, Berks RG11 4QX'.

3.36 The document also confirms the address of [REDACTED] at Westwood Cottage in this time. Notably correcting the form as 'Reading Road' was renamed 'Sheerlands Road' and is struck through on the document.

3.37 This appendix confirms the registered office of SG Ray & Co Ltd at Sheerlands House since 1995.

3.38 This supports the assertion that an office use has been present on site since 1995 and alone should be given **significant weight**. This also serves to corroborate Appendix 1 which states the presence of SG Ray & Co Ltd on the site at least since 1993.

3.39 **Balance of Probabilities:** It is acknowledged the onus of proof is on the applicant to demonstrate the continuous uses being sought for exceeds the time limits of S171.B of the Act.

3.40 In this instance the evidence shows:

- The LPA previously refused a certificate for these uses in 2017. The information submitted with this application stated that the use existed since 1994. This is corroborated by the further information provided in this application. The application was refused owing to the description of development making reference to the storage being 'ancillary'. No alternative red line in the certificate was issued.
- The office (Sheerlands House) for SG Ray & Co Ltd has been in situ since at least 1994. The office performed the administrative function of the business. The other uses on site arose out of the need of the business occupying the site, SG Ray & Co Ltd.

- Invoices which were charged to the business were addressed to Sheerlands House. For the sake of brevity invoices going back to only 2014 have been provided but in conjunction with other evidence it is clear the use has existed for longer. These include payment for jobs and materials with delivery addressed to Sheerlands House.
- The aerial images corroborate the remaining evidence detailing the sought uses on site in excess of 10 years.
- The statutory declaration details that all uses have existed in excess of 10 years (which in the absence of any conflicting evidence is to be given significant weight in the balance of probabilities).

3.41 On the balance of probabilities all of the above indicate the uses have existed uninterrupted on site in excess of 10 years as such a Certificate of Lawfulness should be granted.

04 Conclusion

4.1 The relevant test for Lawful Use applications is the 'balance of probability.' Based on the submission of evidence, including a Statutory Declaration which can be relied upon as true, clear and unambiguous, it is submitted that the multiple uses have existed in situ in excess of 10 years, and is thus immune from enforcement action.

4.2 If the Council are in possession of any information that leads them to a different view to that set out above, we ask that we have the opportunity to examine this information to ensure a fair and balanced assessment.

The PPG requires the LPA to share any information they have with an applicant to allow them the opportunity to comment and possibly provide counter-evidence.

- 4.3 However, it is considered that the submitted evidence meets the tests of being clear and unambiguous. On the balance of probability, based on the submitted evidence, it is therefore requested that the application for a certificate of existing lawful use be approved.

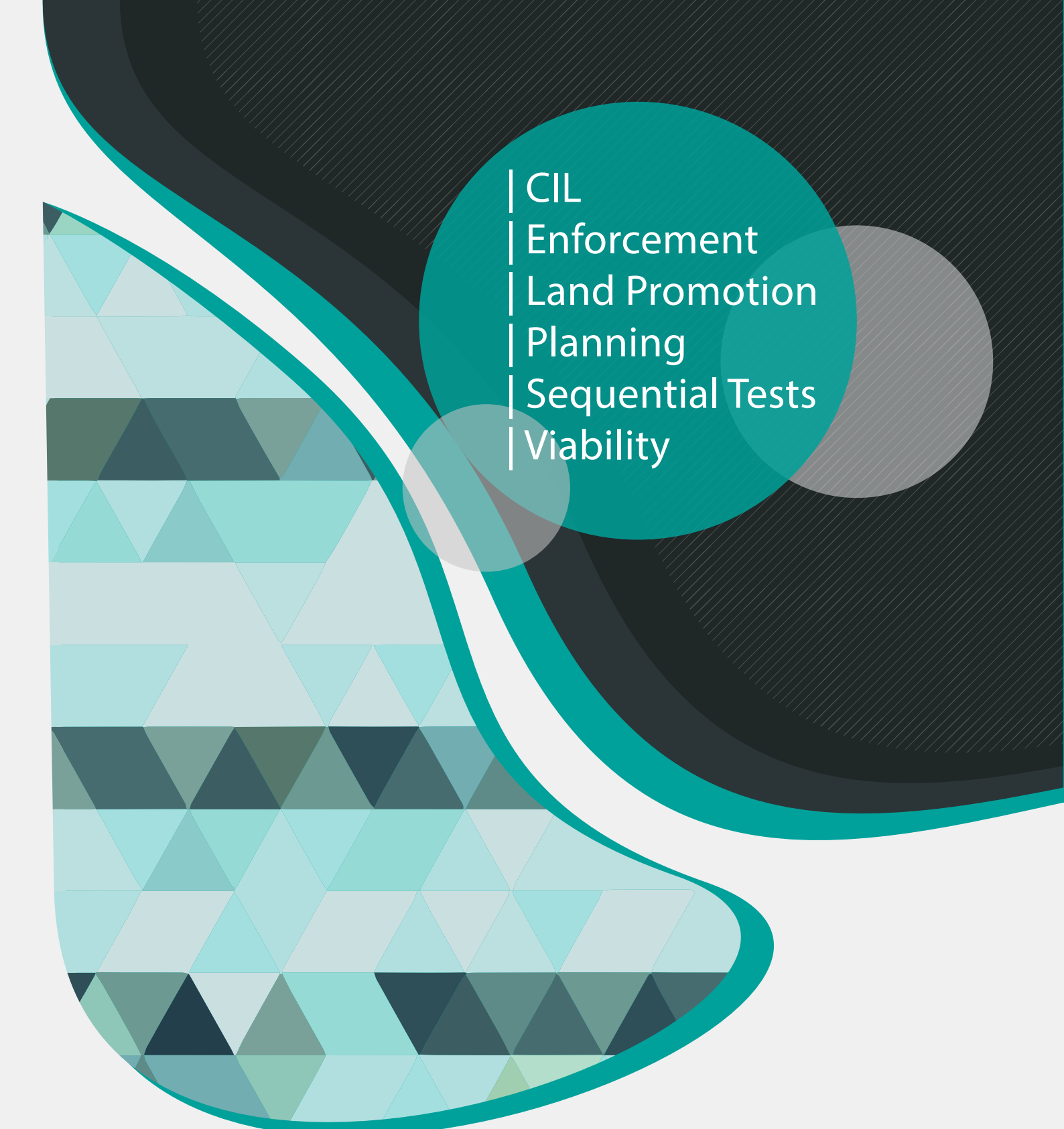


Will Hossack BSc MSc

Principal Planner | ET Planning

200 Dukes Ride Crowthorne RG45 6DS

will.hossack@etplanning.co.uk 01344 508048



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Contact

Address

200 Dukes Ride RG45 6DS
One St Aldates OX1 1DE
32 London Road GU1 2AB
14 The Square SY1 1LH
72 Paris Street EX1 2JY

Phone

01344 508048
01865 507265
01483 363950
01743 612043
01392 691384

Web & Mail

Email: office@etplanning.co.uk
ET Planning Ltd | 10646740

Web: www.etplanning.co.uk