

TOWN & COUNTRY PLANNING ACT 1990

PLANNING STATEMENT

**MOOR GREEN BARN
LOWER SANDHURST ROAD
FINCHAMPSTEAD
BERKSHIRE
RG40 3TJ**

Lawful development certificate for the use of Moor Green Barn as an independent office

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1. INTRODUCTION

- 1.1 This statement is submitted in support of an application for a lawful development certificate for an existing use at Moor Green Barn, Lower Sandhurst Road, Finchampstead. The certificate relates specifically to the use of the building for an independent commercial office use. The use has been continuous for a period in excess of 10 years and as such is now considered to be lawful.
- 1.2 This submission is accompanied by 14no. statutory declarations which include the owner and occupant [REDACTED], numerous family members, acquaintances and business connections who would regularly attend the building for meetings. These are attached at appendices 1-14 to this statement. At appendices 15-16 are two documents connected with enforcement investigations by the Council prompted by a local complaint that the premises were in use either for commercial or residential use. Appendix 17 contains photographs of the building in 2014 and the present day.
- 1.3 The statement is divided into the following sections:
- Site History
 - Analysis of the Evidence
 - Summary and Conclusions

2 SITE HISTORY

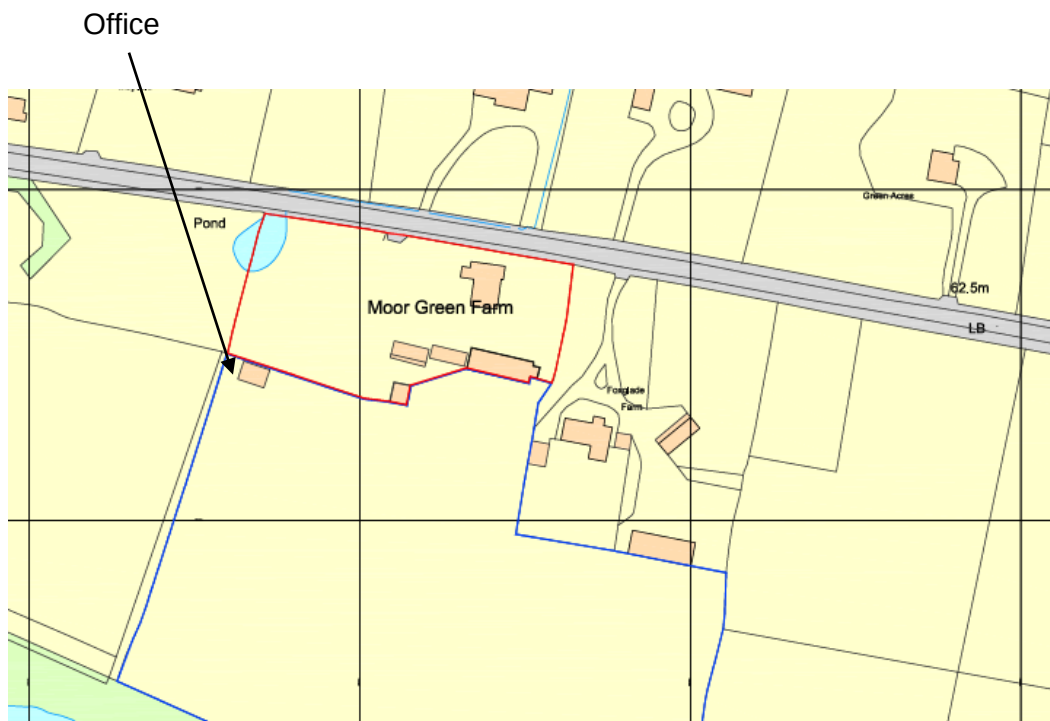
- 2.1 The only planning application relating to the site itself was for a new access in 2016. The details of this application have been summarised below:

160159 – Householder application for proposed new access. Approved 29/03/2016

- 2.2 The officer report confirmed that the access was required to provide a secondary access to allow plant and machinery in to cut the orchard field and paddocks to the rear to keep the planting and machinery away for the domestic/residential part of the property. It would also enable the vehicle that deliver pellets for the bio-mass boiler to make the delivery.

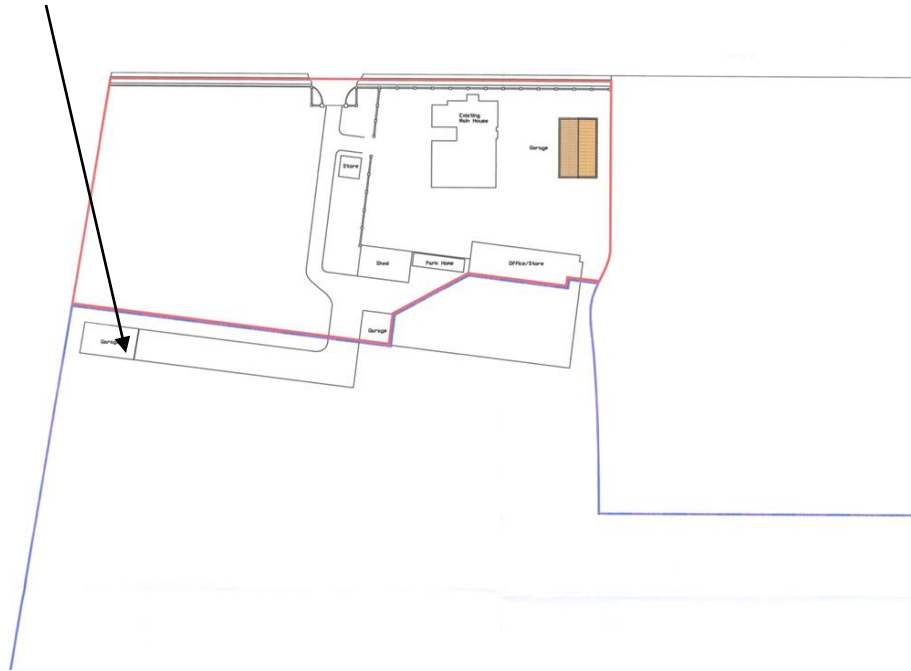
- 2.3 Prior to the approval of the access in 2016, all of the earlier decisions had consistently showed the building to be outside of the established residential curtilage. This includes the following applications with the relevant red line plans attached below in date order:

CLP/2011/1064 (Certificate of lawfulness for triple bay garage - refused 14/07/2011)



CLP/2011/1477 (Certificate of lawfulness for a triple bay garage - lawful on 26/08/2011)

Office

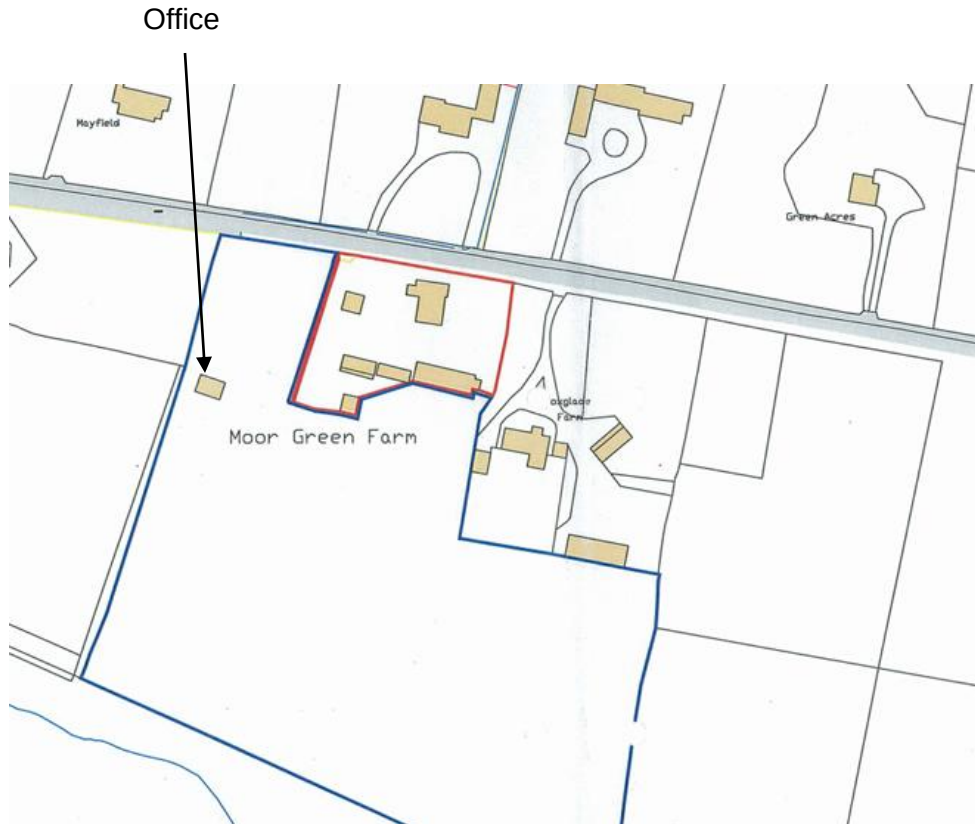


F/2012/1104 & 120501 (Replacement dwelling – approved 10/09/2012)

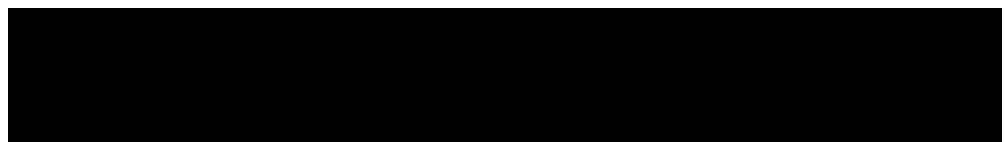
Office



NMT/2013/0585 & 131276 (Non Material Amendment to application F/2012/1104)



- 2.4 In 2020, following a complaint to the Council, [REDACTED] (Planning Enforcement) visited the property (appendix 16). This was the last of three visits that he made between 2017-2021. The allegation (proved to be incorrect) was that the building was in 'residential use'.
- 2.5 Following a further complaint to the Council in 2021, a Planning Contravention Notice was served on the owner [REDACTED] alleging the use of the land and detached building for commercial purposes (the building as a structure itself was not in dispute) – see appendix 15. The answers to questions 4-6 of the PCN are set out below concerning the building's construction and use:





2.5 No action was ever taken against the commercial use of the building.

3 ANALYSIS OF THE EVIDENCE

3.1 Subsection 1 of section 191 of the 1990 Act provides as follows:

‘(1) If any person wishes to ascertain whether-

- (a) Any existing use of buildings or other land is lawful;*
- (b) Any operations which have been carried out in, on, over or under land are lawful; or*
- (c) Any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,*

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.’

3.2 Subsections (2) and (3) provide so far as material that for the purposes of the Act, any existing uses and operations, or failure to comply with a condition, are lawful if at any time the time limit for enforcement action in respect of the use, operations or failure, has expired. The relevant time limit is 10 years.

3.3 Subsection (4) provides that if the local planning authority are provided with information satisfying them of the lawfulness at the time of the application, they shall issue a certificate to that effect and in any other case they shall refuse the application.

3.4 Subsection (5) states that a certificate shall:

- i) Specify the land to which it relates;
- ii) Describe the use, operations or other matter in question;
- iii) Give the reasons for determining the use, operations or other matter to be lawful; and

- iv) Specify the date of the application for the use for the certificate.

3.5 This application concerns the use of a building as an independent office. The application is supported by 14no. attached statutory declarations, correspondence with the Council and photographs.

3.6 The key points in respect of the use are as follows:

- i) The building was constructed in 1993 since when it has been used commercially, including by the previous owner;
- ii) The current owner and applicant [REDACTED], purchased Moor Green Barn and the adjoining Moor Green Farm in 2009;
- iii) In 2012, planning permission was granted to replace the adjoining dwelling known as Moor Green Farm. Moor Green Barn has never been shown to be inside the same red line area as the adjoining property, Moor Green Farm, only within the 'blue' lined area – see site history chapter;
- iv) The owner added a shower room to Moor Green Barn in 2013 and a store in early 2014 (see photographs at appendix 17);
- v) The building has been connected independently with a phone line, internet, electrics, water and foul drainage since 2014. It also has a kitchen, shower room, dedicated office space, meeting area and ancillary storage (see floor plans);
- vi) In 2017, [REDACTED] sold Moor Green Farm but retained Moor Green Barn for continuing use as a commercial office;
- vii) The 16no.other statutory declarations include numerous regular visitors, family members and professional contacts/colleagues all of whom have confirm the continual use of the building;
- viii) [REDACTED] (WBC Enforcement), visited the site three times between 2017 and 2021. He initially visited the property to check the validity of the entrance

and building following which it was apparent that he was unaware that permission had been granted in 2016. He didn't get back to the owner on this matter;

- ix) [REDACTED] returned again in early 2020 stating that there had been reports of unauthorised building works which amounted to a new wall which he later concluded did not require permission. He was supposed to visit in March 2020 but this failed to materialise due to the Covid pandemic. When visiting was allowed, he viewed the property from the door and left satisfied that there was nobody living there;
- x) A PCN was served in 2021 and the responses provided [REDACTED] clearly indicated that the building was and had been in commercial use;
- xi) Given the extent and regularity of visitors to the dwelling, there can be no question of deliberate 'concealment';
- xii) The photographs at appendix 17 all clearly show the flue from the stove and this was evident at all of [REDACTED] visits between 2017-2021. They also show the telephone line and treatment plant (which also emits a constant loud humming sound) and again these were clearly visible when [REDACTED] visited the site between 2017-2021;
- xiii) Moor Green Barn has always been used independently of the adjoining property at Moor Green Farm, and this is further supported by the attached sales brochure at appendix 18 (dated 2015).

4 SUMMARY AND CONCLUSIONS

- 4.1 There is overwhelming evidence in the form of numerous signed statutory declarations and supporting documentation to confirm the fact that the building has been used as an independent office in connection with the owner's construction business for a period in excess of 10 years on a continuous basis. If the Council agree with the evidence provided (on the balance of probability), and they have no contradictory evidence that conflicts with the facts presented, then a certificate of lawfulness should be granted.