

Our Ref: 22049/CJ  
Your Ref: PP-11006372  
Email: [cjones@firstplan.co.uk](mailto:cjones@firstplan.co.uk)  
Date: 09 March 2022

Planning  
Reading Borough Council Civic Offices  
Bridge Street  
Reading  
RG1 2LU

Dear Sir/Madam

**LAWFUL DEVELOPMENT CERTIFICATE FOR AN EXISTING USE OR DEVELOPMENT  
3-5 CRAVEN ROAD, READING, BERKSHIRE RG1 5LE**

This Lawful Development Certificate application is submitted on behalf of Harkalm Group Ltd, pursuant to Section 191 of the Town and Country Planning Act 1990. The proposal seeks to establish the lawfulness of the existing premises within Class E(e) as a facility for the provision of medical or health services, principally to visiting members of the public, at 3-5 Craven Road, Reading, Berkshire RG1 5LE.

Accordingly, the application has been submitted via the Planning Portal (Ref: PP-11006372) with the following documents:

- Completed Application Forms;
- Completed CIL Form 1;
- This Covering Letter (encompassing the Applicant's Statement of Case demonstrating the lawfulness of the existing use, entailing a description of the application site, details of the existing use, justification as to why this is lawful and the date of the application);
- Site Location Plan (drawing no. 5021\_KW\_PR\_DR\_01-01);
- Block Plan (drawing no. 5021\_KW\_PR\_DR\_02-01); and
- Existing Floor Plans.

The evidence to support this Lawful Development Certificate is enclosed within the appendices to this letter as follows:

- Appendix 1 – Copy of the Town and Country Planning (Use Classes) Regulations 2020
- Appendix 2 – Statutory Declaration of Michael C Perks
- Appendix 3 – Existing Floor Plans

The requisite fee of £462, plus the £28 admin fee, has been paid online. The documents submitted are in accordance with the Council's validation requirements for certificate of lawfulness applications.

## Application Site Description

The application site includes two link-detached buildings situated on the eastern side of Craven Road. The site occupies the corner of Craven Road and Erleigh Road and extends to 0.33ha. The site is situated southeast of Reading town centre and is immediately east of the Royal Berkshire Hospital.

The two buildings (no. 3 and no. 5) are located on the western side of the plot and front onto Craven Road. The remainder of the side includes open air car parking. The vehicular accesses to the site are from Craven Road. An aerial view of the application site is provided at Figure 1; however, it is noted that the portacabins to the rear (east) of the site have now been removed.



**Figure 1.** Aerial View of Site [portacabins now removed and area cleared]

No. 3 is the more northerly of the buildings and comprises a two storey victorian house (originally) in the Gothic style. The building was added to Reading Borough Council's local list in 2015 (ref: LL5) and is described as follows:

*"The building makes use of brickwork which although Victorian is distinctively from the Berkshire area due to use of clays found in the area, possibly at local kilns from areas such as Tilehurst. The Gothic building retains exuberant polychromatic brickwork and stone dressings and an ogee turret roof at the rear angle. The building retains virtuoso yellow stock brickwork forming the plinth, dentillated string course, quoins and levelling courses and forming the chimney stack. The decorative fretted timberwork at the gables is particularly impressive. Dressed stone around the windows heads and cills with keystones shows particular quality. The building is associated with a number of large villas along Craven Road, and the historic Berkshire Hospital building."*

A street view of no. 3 is provided at Figure 2. No. 5 was also originally a three storey house. Both buildings have been subject to various extensions over time, as part of their use by Berkshire Healthcare NHS Foundation Trust and its predecessor NHS bodies. A street view of no. 5 is provided at Figure 3.

The site is located within Flood Zone 1 and includes no listed buildings. It is further within Parking Zone 2.



**Figure 2.** No. 3 Craven Road Streetview



**Figure 3.** No. 5 Craven Road Streetview

## **Planning History Summary**

The buildings' longstanding use are as a medical and healthcare facility (Class E), formerly Class D1. This was acknowledged by the Council in pre-application advice (ref: 210171/PRE) in June 2021, in which it stated:

***“At the time of this submission the site remains within the ownership of the local NHS Foundation Trust and was used as a community facility (the Dingley Health Development Centre) run by RBH”.***

The planning history is assessed later within this letter, but those applications available on the Council's online database include:

| Reference number | Description of Development                                                                                                                                                                                                            | Decision                     |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 0000007844       | No. 5 – “Extensions”                                                                                                                                                                                                                  | Granted                      |
| 04/01401/FUL     | “Temporary Relocation of Existing Portable Building From Battle Hospital And Extension To House Dingley Childrens Development Centre”                                                                                                 | Granted                      |
| 160355/FUL       | “Erection of a Part 4 Storey/Part 3 Storey Building To Accommodate 39 Retirement Living Units (C3 Use) For Older Persons With Communal Facilities, Parking and Associated Landscaping Following The Demolition Of Existing Buildings” | Withdrawn                    |
| 170166           | “Application for prior notification of proposed demolition. All buildings at 3 to 5 Craven Road”                                                                                                                                      | Observations Sent            |
| 170484           | “Application for prior notification of proposed demolition. All buildings at 3 to 5 Craven Road”                                                                                                                                      | Observations Sent            |
| 171954           | “Demolition of existing buildings and redevelopment to form 25 Retirement Living units (C3 use) for older persons with communal facilities, parking and associated landscaping”                                                       | Refused and Appeal Dismissed |

**Table 1.** Summary of Planning History

## Legislative Background and Requirements

### Lawful Development Certificates

This application is made under Section 191 of the Town and Country Planning Act 1990 (the “Act”). Section 191 affords individuals the opportunity to apply to the Local Planning Authority to obtain a decision on whether: *“an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes”*.

If the Local Planning Authority is satisfied that the appropriate legal tests have been met, it will grant a lawful development certificate.

The statutory framework covering “lawfulness” for lawful development certificates is set out in Section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the “DMPO”) specifies the contents of an application and how it must be submitted. It sets out that an application needs to describe precisely what is being applied for and the land to which the application relates. This application has been prepared to satisfy the requirements of the DMPO.

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. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any 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.

The relevant legislation affirms that there is no statutory requirement to consult third parties including parish councils or neighbours; indeed, views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application. A Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this application process.

## **Planning Assessment**

The Applicant considers the Use Class of the existing building and land to be within Class E of the Town and Country Planning (Use Classes) Order 1987, as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (“2020 Amendment”).

The 2020 Amendment is enclosed at Appendix 1. Schedule 2, Part A Commercial, Business and Service outlines Class E as follows:

### ***Class E. Commercial, Business and Service***

*Use, or part use, for all or any of the following purposes—*

- a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,*
- b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,*
- c) for the provision of the following kinds of services principally to visiting members of the public—*
  - i. financial services,*
  - ii. professional services (other than health or medical services), or*
  - iii. any other services which it is appropriate to provide in a commercial, business or service locality*
- d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,*
- e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,***
- f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*
- g) for—*
  - i. an office to carry out any operational or administrative functions,*
  - ii. the research and development of products or processes, or*
  - iii. any industrial process,*

*being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*

## **Appendix 1**

The application building and land (shown on the submitted plans) began to be occupied for healthcare and medical uses during the 1960s and continued until 2018.

This application is supported by extensive evidence to demonstrate that the lawful use of the building and its land falls within Class E of the Use Classes Order. The evidence is sufficiently precise and unambiguous to

justify the grant of a certificate on the balance of probability, as required by Section 191 of The Act. The evidence includes:

## Statutory Declaration

The application is supported by a Statutory Declaration of Michael C Perks. Mr Perks holds the position of Property Manager at Berkshire Healthcare NHS Foundation Trust, which was the freehold owner of 3-5 Craven Road until February 2022.

The Statutory Declaration confirms the following:

- Berkshire Healthcare NHS Foundation Trust has operated the site, for patient facing mental health services, since April 2001 and together with its predecessor NHS body, since at least the early-1990's until its recent closure in 2018 to make way for redevelopment.
- During its occupation of the site, the Berkshire Healthcare NHS Foundation Trust provided mental health services for children called Child & Adolescent Mental Health Services (CAMHS).
- Pre-registration deeds demonstrate that no. 5 Craven Road was acquired by the Minister of Health in 1960 and subsequently no. 3 was also acquired by the Minister of Health in 1963. The site has remained in continuous medical and healthcare use since these dates under various health bodies.
- The portacabins previously located at the site were removed in 2020 and were occupied by another NHS Trust (Royal Berkshire NHS Foundation Trust) for children's clinical services to NHS patients. This facility was known as the Dingley Child Development Centre.

This evidence demonstrates that the property at 3-5 Craven Road has been used to provide clinical medical and healthcare services to visiting NHS patients and as ancillary offices for a period of more than ten continuous years leading up until its closure in 2018. This demonstrates that the use has been undertaken since the 1960's (circa. 50+ years).

The use as described within the Statutory Declaration clearly falls within Class E(e) as a facility *"for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner."*

Furthermore, this demonstrates well over ten years within this use. Section 171B of the Town and Country Planning Act 1990 confirms that no enforcement action may be taken against a use after the end of the period of ten years. Thus, any use that has occurred for ten years will be immune from enforcement action and would comprise the building's lawful use.

Accordingly, the existing and lawful use of the building falls within Class E(e).

## Planning History

There are various extracts within the planning history associated with 3-5 Craven Road, which further corroborate the use of the buildings as a medical and healthcare facility. A variety of extracts from statements made by the Council, a Planning Inspector and an Applicant are summarised in Table 2 below.

| Reference number | Document                     | Evidence                                                                        |
|------------------|------------------------------|---------------------------------------------------------------------------------|
| 171954           | Appeal Decision - 18/3198514 | Appeal Decision Paragraph 9 – in respect of no. 3 Craven Road, it set out that: |

|              |                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|              |                                                                                   | <p><i>“The building is in poor decorative condition internally, and is a product of its NHS use of health-care office/consulting/meeting/training rooms, with a warren of small rooms, a multitude of fire doors, corridors, poor quality partitions, steps up and down, sloping ceilings in upper floor rooms etc; externally the walls are grubby and stained”.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                     |
| 171954       | Appellant Appeal Statement - 18/3198514                                           | <p>Appellant’s Statement clarifies use of the buildings at Paragraph 2.1 as follows:</p> <p><i>“The site the subject of this appeal consists of No.3-5 Craven Road, Reading. The site is currently a vacant brownfield site in the centre of Reading following the relocation of Berkshire Healthcare NHS Trust’s children’s services to the University of Reading campus in January 2018”.</i></p>                                                                                                                                                                                                                                                                                                                                                                           |
| 171954       | Council Hearing Statement by Steve Vigar, Principal Planning Officer - 18/3198514 | <p>Council’s Statement clarifies use of the buildings at Paragraph 2.2 as follows:</p> <p><i>“The site remains occupied by a community facility, the Dingley Health Development Centre (run by Royal Berkshire Hospital) which is a service for children with moderate to significant disabilities and serves children across Reading, Wokingham and West Berkshire LA areas; a second service, the Children and Adolescent Mental Health service for 0 – 19 years (serving Reading), operated by Berkshire Healthcare NHS Foundation Trust has only recently vacated the premises (May/June 2018)”.</i></p>                                                                                                                                                                  |
| 171954       | Committee Report                                                                  | <p>Council’s Committee Report clarifies use of the buildings at Paragraph 1.2 as follows:</p> <p><i>“The site is currently occupied by two community facilities, the Dingley Health development centre – run by Royal Berkshire Hospital. This is a service for children with moderate to significant disabilities and serves children across Reading, Wokingham and West Berkshire LA areas; the second being the Children and Adolescent Mental Health service for 0 – 19 years (serving Reading), which is run by Berkshire Healthcare NHS Foundation Trust. Section 14 of the submitted application form suggests that the use ended on 1 September 2017. However, based on a site visit on 14 December 2017, it appears that both occupiers are still in place”.</i></p> |
| 04/01401/FUL | Description of Development                                                        | <p>The Description of Development for the placement of portacabins at the rear of the site in 2004, described this as an extension to house the Dingley Children’s Development Centre.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

**Table 2.** Planning History Extracts

This further demonstrates that the use is within Class E(e).

## Other Evidence

Further evidence of 10+ years of operation by the Berkshire Healthcare NHS Foundation Trust is provided by Google Streetview imagery dating back to March 2009, as evidenced in Figure 4.



March 2009



May 2014



September 2016



May 2019

**Figure 4.** Google Streetview Extracts

## Conclusions

This application is made under Section 191 of the Town and Country Planning Act 1990 and seeks a Lawful Development Certificate confirming that the lawful use of 3-5 Craven Road, Reading, RG1 5LE (building and land) is within Class E of the Town and Country Planning (Use Classes) Order 1987, as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("2020 Amendment").

This submission has demonstrated that the premises have been used by Berkshire Healthcare NHS Foundation Trust (and its predecessor NHS bodies) for well in excess of 10 years for medical and clinical healthcare purposes, as evidenced by the submitted Statutory Declaration of Michael C Perks, recent planning history at the site and Google Streetview imagery.

Most recently, the site provided patient facing mental health services (since April 2001) for children called Child & Adolescent Mental Health Services (CAMHS). The portacabins previously at the site (since 2005) were also used for children's clinical services to NHS patients called the Dingley Child Development Centre.

This evidence submitted demonstrates that the property at 3-5 Craven Road has been used for medical and clinical healthcare to visiting NHS patients and as ancillary offices for a period of more than ten continuous years leading up until its closure in 2018. This use is therefore deemed to be lawful.

The use as described within the Statutory Declaration and planning history clearly falls within Class E(e) as a facility for *“the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner”*.

In the light of the above, this application is supported by extensive evidence to demonstrate that the lawful use of the building and its land falls within Class E of the Use Classes Order. The evidence submitted is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability, as required by Section 191 of The Act.

The submission is therefore consistent with the requirements of Section 191 of The Act and we respectfully request that the Lawful Development Certificate is granted at the earliest opportunity.

Yours faithfully



CHRIS JONES  
Director

Enc.