



Planning

Planning Statement

Client:

Mr Hamblin

Willowbend

The Warren, Caversham, Reading, RG4 7TQ

Certificate of Existing Lawful Use, for the erecting of a shed, ancillary to the boathouse.

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1. Introduction

- 1.1 This statement is produced to support an application for a Certificate of Lawful Development of Existing Development under section 192 of the Town and County Planning Act 1990 for the siting and use of an ancillary shed to the main boathouse at Willowbend, The Warren, Caversham, RG4 7TQ.
- 1.2 This planning statement will introduce the meaning of 'development' in accordance with the Town and County 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.
- 1.3 In addition to this report, the application is accompanied by the appropriate certificate application forms appendices and a Location plan 1:1250, Site plan 1:500, Elevations 1:100.
- 1.4 The relevant application fee will be submitted by the applicant separately.

2. 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 171B 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(1) relates to breaches of planning control consisting of "the carrying out without planning permission of building, engineering, mining or other operations...no enforcement action may be taken after the end of the period of four years".
- 2.3 The application relates to the operational development of erecting a shed, ancillary to the boathouse. Permission is therefore being sought under this rule for 4 continuous years of operational development.
- 2.4 The dates to demonstrate the lawfulness of the proposal are therefore from the date of submission, March 2022 back four years to March 2018.
- 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". It further states that "if the 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".

- 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 Section 4 outlines the evidence submitted within the Exhibit, and explains how this evidences immunity from enforcement action.

3. Planning History

Reference	Description	Date
970290	Two storey house.	Withdrawn – 01.04.1997
020675	Application for a certificate of lawful existing use as a dwelling	Refused – 16.01.2003
041373	Application to determine that the use of a property as a dwellinghouse is lawful	Withdrawn – 07.02.05
101823	Retrospective application for the retention of raised timber wheelchair ramp and ancillary works replacing original stepped ramp (re-submission of 10/00842/FUL)	Refused – 10.03.11
110461	Retrospective application for retention of raised timber wheelchair ramp and ancillary works replacing original stepped timber ramp. Amendment to application 10/01864/FUL.	Approved – 05.09.11

- 3.1 The site has an extensive planning history. First reference to the ancillary shed is detailed on the site plan for application ref. 101823 which details area in which the shed is located as a bike/bin store. It is assumed that this was an open structure. No reference to the

building is made within application ref. 110461, however this may have been as the structure had yet to be built, with the dates to demonstrate lawfulness of the proposal being from the date of submission, March 2022, back four years to March 2018.

- 3.2 As the evidence below demonstrates, on the balance of probability, the structure was likely erected after this date and within the required period.

4. Assessment of Submitted Evidence

Exhibit 1: Location, Site, Floor and Elevation Plans

- 4.1 The submitted red line identifies the planning unit of the boat house, consistent with previous submissions to the Council on this site. It demonstrates that the shed subject to this Certificate is ancillary to the main boat house, and does not involve any change of use of land.
- 4.2 The Proposed Plans and Elevations demonstrate the structure as a shed building for storage purposes, and of the size and location as present on site.

Exhibit 2: Aerial Photo

- 4.3 The aerial photo submitted via Google Maps imagery is from March 2017 and clearly shows that the ancillary shed have been in situ from at least the date of the aerial photo, thus showing that the shed has been on the land in excess of 4 years.
- 4.4 The shed, while slightly covered by the canopies of vegetation within the imagery, shows a structure of the same size, location and roof form as that subject to this Certificate, demonstrating it is the same structure.

Exhibit 3: Email statement from previous owner

- 4.5 The exhibit provides evidence to support the submission that the shed has been on site since at least 2013, as advised by a representative of the previous owner. This in turn assists in demonstrating that the shed has been on site for upwards of 8 years, well in excess of the minimum four year period.
- 4.6 A full Statutory Declaration has not been possible to submit due to the circumstances at hand. As detailed in Exhibit 3, the previous land owner has passed away. Following this the land was held by family and a vendor who do not have knowledge of the site history. The land subject to the red line has now been purchased by a new individual (the applicant) who again has no knowledge of the previous history.

Exhibit 4 – Photos showing ancillary use of shed

- 4.7 The photographs demonstrate the ancillary use of the shed in association with the boat house, as well as its active use for ancillary storage and maintenance purposes. It shows a shed of substantial construction that clearly has not been recently erected, with signs of modest wear and tear to be expected from a well-kept building several years old.

5. Conclusion

- 5.1 The relevant test for Lawful Use applications is the 'balance of probability.' Based on the submission of evidence which can be relied upon as true, clear and unambiguous, it is concluded that the shed has been erected and used as ancillary storage and maintenance to the boat house for a period in excess of four years, and therefore in excess of the 4 year immunity from enforcement period.

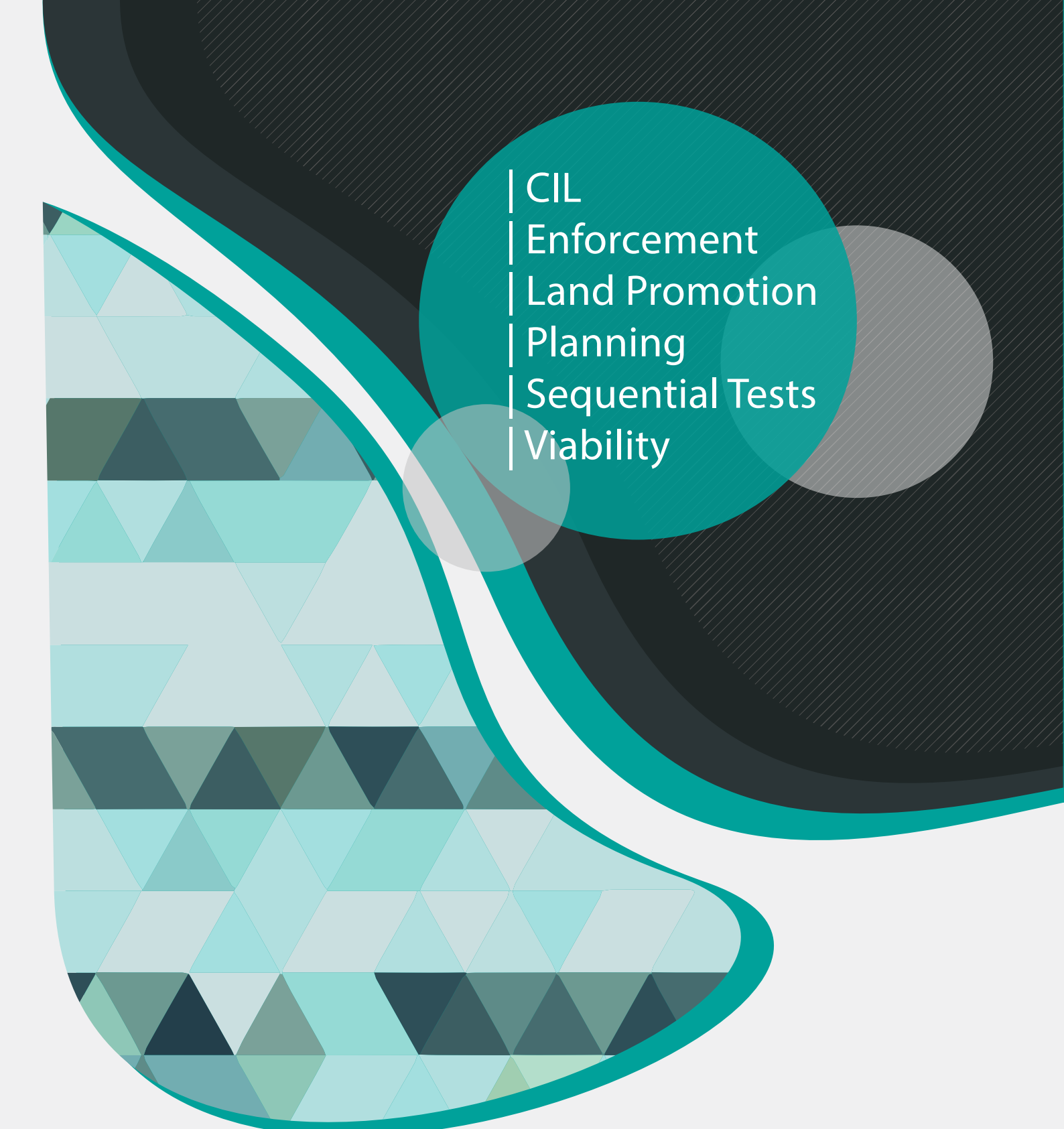
- 5.2 If the Council are in possession of any information that leads them to a different view to that set out above, we ask that we have the opportunity to examine this information to ensure a fair and balanced assessment.
- 5.3 However, it is considered that the submitted evidence meets the tests of 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.

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