

PLANNING STATEMENT

Certificate of Lawfulness for use of existing building in D1 Use

**Orwell House, 23 Craven Road,
Reading, RG1 5LE**

On Behalf of: Berkshire Health Limited

Report Prepared By: Lyana Radzif BSc (Hons) MSc GradCIEEM
Toby Cowell MA (Hons) MSc MRTPI

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1. INTRODUCTION

- 1.1 This statement is produced to support an application for a Certificate of Lawful Development for the use of an existing building in Use Class D1.
- 1.2 This planning statement will introduce the meaning of 'development' in accordance with the Town and Country Planning Act 1990, summarise the relevant legal tests and sets 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 planning statement, the application is accompanied by the appropriate forms and ownership certificate, duly signed and completed, and the following documents:
 - 1:1250 Site Location Plan
- 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 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 change of use of a building or land, which has not resulted in the creation of a single dwellinghouse, 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, January 2020 back 10 years to January 2010. In this case the use has continued since at least 1988, over 32 years.
- 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 The following section outlines the evidence submitted within the Appendices, and explains how this evidences immunity from enforcement action:

3. ASSESSMENT OF SUBMITTED EVIDENCE

3.1 Appendix 01: Statutory Declaration

A statutory declaration is submitted by Mr Stephen Foley, who co-owns the land and building subject to the application and has co-owned it since 13th June 2013. Mr Foley, the Managing Director of Berkshire Health Limited, outlines that prior to his purchase of the site, the property has been in multiple other D1 uses. He confirms that to the best of his knowledge the D1 use has been continuous since its commencement.

3.2 Appendix 02: Land Register

A copy of the land registry has been submitted alongside this application. This document outlines the co-ownership of the proposal site and the date in which it was purchased from Reading Borough Council.

3.3 Appendix 03: Lease Document 31st May 2013

A copy of the lease document between Berkshire Health Limited and the owners of the proposal site has been submitted by the applicant. The lease commenced on the 31st May 2013 and is contracted until 30th May 2023.

3.4 Appendix 04: Lease Extension Agreement

A submission of the lease extension agreement between Berkshire Health Limited and the site owners has been attached. This extension is dated November 2017 and agrees an extension of the lease from 1st September 2017 until 31st August 2027.

3.5 Appendix 05: Planning Committee Minutes

Page 33 of the attached appendix 05 outlines the appeal decision regarding the proposal site. This appendix is a copy of the Planning Committee Minutes at Reading Borough Council dated 8th January 2013. The officer states that the site comprises a large detached Victorian building that is currently vacant but was mostly used by Reading Borough Council as a base for educational support services such as educational psychologists and behavioural support staff. These uses mentioned by the case officer fall under use class D1 of the Town and Country Planning (Use Classes Order) 1987 (as amended).

These services mentioned were prior to the use by Berkshire Health Limited and therefore the D1 use class has existed for a continuous period in excess of 10 years.

4. 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 use of the property for D1 Use Class has been in place for a continuous period of at least 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.
- 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.