MME PLANNING SERVICES

LDC – Use of Building as Self-Contained, Independent Dwelling for more than 4 years

at

The ‘Woodstore’, Great Steeds Farm House, Copsale Road, Maplehurst, West Sussex, RH13 6QY

Planning Statement

Ref: P-040a

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Version 1

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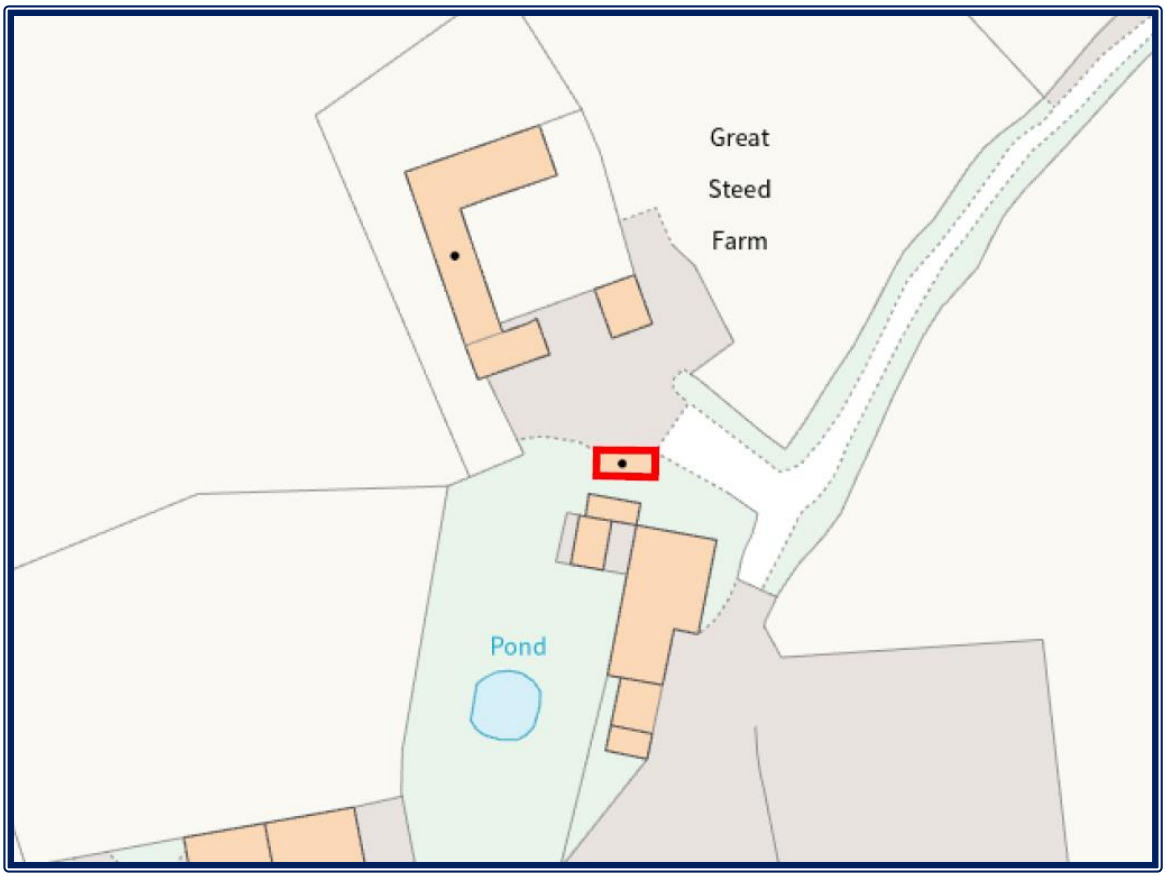


Figure 1: Site Location / Red Line Area

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1. Introduction

1.1 This statement is submitted in support of an application for a Certificate of Lawfulness (Existing) under Section 191 of the Town and Country Planning Act (1990) relating to the use of the building known as the 'Woodstore' located at Great Steeds Farm House, Copsale Road, Maplehurst, West Sussex, RH13 6QY, and outlined in red on the accompanying map at **Appendix A**, as a self-contained, independent dwellinghouse.

1.2 It is noted and acknowledged that HDC's online mapping system / register refers to the building as the 'Annexe' and this is reflected in some of the evidence provided with this application, however the building that is the subject of this application has always been known and referred to by the applicant as the 'Woodstore'. Any potential ambiguity in this regard is overcome by the fact that the site / building in question is clearly marked in red at **Appendix A**, and this application and evidence provided relates solely to this building and its use.

1.3 The building identified as the 'Woodstore' has been in continuous use as a self-contained, independent residential dwelling in the existing arrangement since at least December 2007 and before 25 April 2024. The application to which this statement relates seeks confirmation from the planning authority that the use of the 'Woodstore' as a self-contained, independent residential dwelling would also be lawful.

1.4 This report sets out the following:

- Background and relevant history
- The appropriate tests and considerations.
- The evidence submitted to support the application.

1.5 The appendices provide all relevant evidence including signed Statutory Declarations.

2. Site, Surroundings and Background

2.1 The application site relates to a single storey building of approximately 20sqm located within the wider grounds of Great Steeds Farm House, Copsale Road, Maplehurst, West Sussex, RH13 6QY. The building that is the subject of this application consists of brick facing to the external walls, a tiled roof and UPVC fenestration.

2.2 Ms Joanne Hartland (the Applicant), purchased the wider holding of Great Steeds Farm in September 2004 and currently resides at Great Steeds Farm House. The wider holding consists of various buildings which were all present on site at the time of the applicant's purchase. Google Earth image history, as detailed within **Appendix B**, shows the building that is the subject of this application in situ since at least 2005 (last date available on Google Earth's historic mapping).

2.3 From inspection of the Council's online planning register, there does not appear to be any planning applications or restrictive conditions in place in relation to the 'Woodstore' building / dwelling.

2.4 Following the flooding of Great Steeds Farm House in 2006, the applicant converted the 'Woodstore' building into accommodation to live in while Great Steeds Farm House was being repaired and renovated.

2.5 The 'Woodstore' consists of studio type accommodation with a living room, bedroom and kitchen area and a separate shower room / washing machine room. **Appendix C** contains photos of the interior and exterior of the application building.

2.6 After moving back into Great Steeds Farm House in 2007, the applicant started to rent out the 'Woodstore' as a self-contained, independent dwelling at the end of 2007.

2.7 The 'Woodstore' was then rented to Ms Lisa Barden in September 2008 who resided and occupied the 'Woodstore' as her main / sole residence and as a self-contained, independent dwelling continuously until 30 September 2024. The applicant and Ms Barden are unrelated, and Ms Barden's occupation of the 'Woodstore' was completely separate from the occupation and use of the applicant's home at Great Steeds Farm House.

2.8 It is noted that the last tenancy agreement agreed between the applicant and Ms Barden which started May 2022, rolled on from the initial 1-year period from May 2023 for a further year up to May 2024. This then rolled on for a further year up to May 2025, however Ms Barden left on the 30 September 2024. Bank statements showing the payment of rent by Ms Barden to the applicant over this period from November 2021 to September 2024 are provided as well as a letter from the estate agents confirming that this agreement was a rolling agreement up to May 2025.

2.9 After Ms Barden moved out, the 'Woodstore' has now been rented to Ms Fitch as a self-contained, independent dwelling, who took up tenancy from the 01 October 2024. Ms Fitch has a tenancy agreement from this date for an initial 6 months.

2.10 Ms Fitch's occupation of the 'Woodstore' as her main / sole residence is as a self-contained, independent dwelling, completely separate from the occupation and use of the applicant's home at Great Steeds Farm House. The applicant and Ms Fitch are unrelated.

2.11 Ms Fitch is responsible for payment of Council tax and other bills, as per the previous arrangement with Ms Barden and has applied to move these accounts into her name.

2.12 Additional evidence is provided to cover the time periods between October 2021 and May 2022, and May 2023 and October 2024 as highlighted by the Council within the refused application, reference DC/24/1635.

3. Tests & Considerations

3.1 The planning merits of the use, operation or activity on the land are not relevant in the assessment of a Certificate of Lawful Use. In considering whether to issue a certificate, an assessment must be made entirely on the factual evidence available to officers.

3.2 The Town and Country Planning Act 1990, Section 191(1)(b) states that: Any person who wishes to ascertain whether any operations which have been carried out in, on, over or under land are lawful they can apply to the Local Planning Authority for a lawful development certificate. S.191(2) states that the uses can be lawful if the time of enforcement has expired.

3.3 S.191(4) of the 1990 Act states that: If the Local Planning Authority is satisfied that operation is lawful, it must grant the certificate. In any other case it must refuse the certificate. The applicants have the burden of proving that the use is lawful on the balance of probability i.e., that it is more likely than not that the use is lawful.

3.4 National Planning Practice Guidance Index 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. A Local Planning Authority is entitled to canvass evidence if it so wishes before determining an application.

3.5 If a Local Planning Authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possible produce counter evidence.

3.6 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 probably, 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'.

3.7 Section 171B (2) of the Act establishes that unauthorised development involving the change of use of buildings (or parts of buildings, as per the definition within Section 336) to dwellings becomes immune from enforcement action after a period of 4 years has elapsed. This remains the case even where a breach of condition is involved (FSS v Arun DC [2006] EWCA Civ 1172).

3.8 Section 171B (1) of the Act establishes that unauthorised operational development becomes immune from enforcement action after a period of 4 years has elapsed.

3.9 Section 115 amends section 171B(1) and (2) of the Act to extend the time period in which local planning authorities can take enforcement action against unauthorised development in England from 4 to 10 years.

3.10 In terms of the transitional provisions for enforcement time limits, these latest amendments will not apply where the operational development or change of use to a dwelling was substantially completed before 25 April 2024, which is the case in this instance.

3.11 Case law (Gabbitas v SSE and Newham LPC [1985] JPL 630) and Government advice, in paragraph 8.15 of Annex 8 of Circular 10/97 state, in an appeal against the refusal of a lawful development certificate, that the appellant's evidence does not need to be corroborated by independent evidence to be accepted. The appellant's version of events should be accepted unless: It is not sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probabilities - The LPA has evidence of their own that contradicts or makes the appellant's version of events less than probable - The LPA has evidence from a third party which has the same effect.

Considerations

3.12 It is contended that, on the balance of probability, the evidence submitted is sufficiently clear, concise and substantive to demonstrate that the dwelling known as the 'Woodstore' the subject of this application has been in continuous use as a self-contained, independent residential dwelling in excess of 4 years and that this use was established for the requisite period prior to the 25 April 2024.

3.13 The following chapter will outline that the applicant can demonstrate that the dwellinghouse has existed on the site for a period of 4 years and the and that the building has been in continuous use as residential accommodation in excess of 4 years. Indeed, it is highlighted the evidence provided by the applicant shows that the use of the application building as a self-contained, independent residential dwelling has taken place for almost 17 years.

4. Submissions and Evidence

4.1 As set out in Section 3, the test to satisfy in relation to Lawful Certificate applications for existing uses is 'on the balance of probability' provided the applicant's evidence is sufficiently precise and unambiguous.

4.2 The 'Woodstore' building as indicated at **Appendix A**, has been in use as a self-contained, independent residential dwelling since 2007. Use as a self-contained dwelling would amount to a material change in the use. Section 55 (1) of the Act confirms that material changes of use constitute development.

4.3 In this instance and as detailed above, the 'Woodstore' has existed in its current arrangement for in excess of 4 years and has been in continuous use as a self-contained, independent residential dwelling for in excess of 4 years.

4.4 We submit the following evidence in support of this submission:

1. Statutory Declarations from:
    i. Ms Joanne Hartland (Owner / Applicant)
    ii. Ms Lisa Barden (Previous Tenant)
    iii. Ms Emma Fitch (Current Tenant)

2. Other Evidence:
    i. Photographic Evidence
    ii. Council Tax Bills
    iii. Tenancy Agreements
    iv. Bank Statements and Receipts Showing Payment of Rent
    v. Additional Evidence

Statutory Declarations

4.5 We submit that the building known as and referred to as the 'Woodstore' has been occupied and used continuously for a period close to 17 years as self-contained, independent residential dwelling.

4.6 We have provided statutory declarations from the applicant and the previous and current tenants, as detailed above, and are contained within **Appendices D, E and F** confirming the details and the timescales of the use and occupancies, as set out in section 2 of this statement.

4.7 The declarations are clear, concise and unambiguous and are considered to be of significant weight in setting out the existing situation in relation to the application building and its use as a self-contained, independent dwelling.

Other Evidence

4.8 In addition to the statutory declarations provided, this application is supported by other evidence.

Aerial Photography and Building Photos

4.9 **Appendix B** includes Google Earth images from 2005 to 2024, which show the building in situ. It is noted that there are mature trees located in close proximity to the application building, which do limit the aerial views to some extent.

4.10 Internal and external photos of the application building are also included with this application at **Appendix C** showing the internal accommodation and appearance of the dwelling.

Council Tax Bills

4.11 **Appendix G** contains Council Tax bills in the names of the previous tenant Ms Lisa Barden and the current tenant Ms Emma Fitch in relation to the 'Woodstore' / application building. As noted above, the Council have referred to this building as the 'Annexe'. In addition, and as also detailed above, the Council Tax for the 'Woodstore' is paid by the occupants and is separate to that of Great Steeds Farm House which is paid by the applicant.

Tenancy Agreements

4.12 **Appendices H, I and J** includes an extensive set of tenancy agreements spanning from 2009 to 2025. It is highlighted that the last tenancy agreement provided in relation to Ms Lisa Barden's occupancy rolled over from the initial period of May 2022 to May 2023 to May 2023 to May 2024 and then for a further year to May 2025 before Ms Barden moved out at the end of September 2024. A letter is provided from the estate agents confirming that this agreement was a rolling agreement which is included at **Appendix L**.

Bank Statements and Receipts Showing Payment of Rent

4.13 **Appendix M** contains bank statements and receipts showing the payment of rent by the previous tenant Ms Lisa Barden between the dates of November 2021 and September 2024 and by Ms Emma Fitch between October 2024 and December 2024. It is noted that Ms Emma Fitch pays her rent partly by bank transfer and partly in cash.

Additional Evidence

4.14 **Appendix K** includes an EPC certificate for the 'Woodstore' dwelling and confirmation of voter registration for Ms Lisa Barden.

4.15 **Appendix L** includes a letter from the estate agents responsible for the letting of the 'Woodstore', as detailed above, confirming that the last tenancy agreement for Ms Lisa Barden was a rolling agreement which covers the period between May 2022 and September 2024.

5. Summary and Conclusion

5.1 In conclusion, it is contended that the above and attached supporting evidence clearly demonstrates, on the balance of probability, that the use of the 'Woodstore' as a self-contained, independent dwelling was completed and the use has continued for more than 4 years prior the date of this application. In addition, it has been shown the works were completed and use as a self-contained independent dwelling was prior to 25 April 2024, as per the current requirement / legislation, and that this use was established for the requisite period prior to 25 April 2024.

5.2 Statutory declarations have been provided which confirm the above and the history of the application building and its use as a self-contained, independent dwelling. Additional evidence has also been provided to support the application.

5.3 The Planning and Compensation Act 1991 states that planning enforcement action against breaches of planning control must be taken within 4 years in respect of a residential use and buildings / operational development.

5.4 As the use of the building known as the 'Woodstore' as a self-contained, independent dwelling have taken place continuously for a period in excess of 4 years and the works to facilitate this use were substantially completed in its current form for a period in excess of 4 years and prior to 25 April 2024, the building / use is now immune from enforcement.

5.5 Indeed, it is contended that the evidence provided shows that the building that is the subject of this application has been used as a self-contained, independent dwelling for a period well in excess of 10 years. A Certificate of Lawful Development is therefore sought to establish that the use is lawful.

5.6 Thank you in advance of your balanced consideration of the proposed application. Please maintain a dialogue with myself and the applicants if you have any questions, concerns or matters that require further elaboration or clarification.

6. List of Appendices

6.1 The following Appendices are included together with this statement –

- Appendix A – Location / Site Plan
- Appendix B – Aerial Photographs
- Appendix C – Photos of Dwelling
- Appendix D – Statutory Declaration – Ms Joanne Hartland
- Appendix E – Statutory Declaration – Ms Lisa Barden
- Appendix F – Statutory Declaration – Ms Emma Fitch
- Appendix G – Council Tax Bills
- Appendix H – Tenancy Agreements with Ms Lisa Barden – 2009 – 2022
- Appendix I – Tenancy Agreement with Ms Lisa Barden – 2022 – 2023 (Rolling to 2024 and 2025)
- Appendix J – Tenancy Agreement with Ms Emma Fitch – October 2024 -
- Appendix K – Other Evidence
- Appendix L – Letter from Estate Agents
- Appendix M – Bank Statements and Receipts Showing Payment of Rent – November 2021 – December 2024