I TANYA ELSAM of Brookside Farm Dagbrook Lane Henfield West Sussex BN5 9SH, DO SOLEMNLY AND SINCERELY DECLARE as follows:

This statement relates to the agricultural building outlined red and pictured below at Brookside Farm, Dagbrook Lane, Henfield, West Sussex BN5 9SH and provides evidence that the barn remains in a Lawful agricultural use as part of the existing agricultural holding. The barn **has always remained in agricultural use** both pre 2013 and on 20 March 2013. There have been no permissions for any subsequent non-agricultural usage of the barn.









This statement is to form part of the following two planning applications in the alternative that have been submitted to Horsham Council.

- **Prior Notification for Change of Use of Agricultural Building to residential (Use Class C3) to form 3no dwellinghouses.**

Brookside Farm Dagbrook Lane Henfield West Sussex BN5 9SH

Ref. No: DC/22/1036 | Validated: Mon 30 May 2022 | Status: Registered

- **Prior Notification for Change of Use of Agricultural Building to residential (Use Class C3) to form 1no dwellinghouse.**

Brookside Farm Dagbrook Lane Henfield West Sussex BN5 9SH

Ref. No: DC/22/1038 | Validated: Mon 30 May 2022 | Status: Registered

Evidence of eligible agricultural use

Below are the historic photos of barn, as you can see from the pictures the barns are open, they were where the cattle were over wintered. Due to the sale of Sussex barn (to the immediate north) this becoming residential (Brookside Barn) and the constant complaints of noise, and smell the cows were removed.







In 2015-16 when the doors and cladding were being put on the eastern elevation of the barn environmental health and safety from Horsham council were alerted, they visited the site, there should be a record of this that would confirm the barns remained in agricultural use.

The installation of the doors on the eastern elevation ensured that the barn could be used for the secure storage of agricultural plant and machinery and as an agricultural workshop for their maintenance. We can probably find a bill for the installation of the doors around 2015-16.

To remove the ambiguity I can confirm that in simple terms the primary use of the land, both in acreage and having remained as a separate planning unit, has always remained agricultural use in connection with the application building.

The confusion that the building has been used in association with non-agricultural activity **is most definitely incorrect. Its primary use has remained solely agricultural.**

There have been no non-agricultural applications permitted at the site. Aside from the fields which are set aside for hay cropping, other fields are used solely for the grazing of horses **which remains an agricultural use** *(as opposed to the keeping or exercising of horses).* To put it another way, the ongoing use of the fields for grazing did not trigger a change of use way from agriculture.

COMMENT – To remove any ambiguity the west end of the barn which has occasionally been used to pen / stable horses has been excluded from the proposed residential floor area.

On the basis of the information above I can confirm that the building remains in agricultural usage as part of an agricultural holding relation to the criterion below:

Q.1 Development is not permitted by Class Q if—
(a) the site was not used solely for an agricultural use as part of an established agricultural unit—
(i) on 20th March 2013, or
(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use.

My planning consultant has asked me to comment on the usage of the application barn in the context of 3 allowed Class Q appeal decisions, summarised below and which will be included in full with the submitted applications.

Appeal Ref: APP/X1545/W/18/3198348
Barn at Great Mountains Farm, Colchester Road, Great Totham, Essex CM9 8ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr & Mrs Pegley against the decision of Maldon District Council.
- The application Ref COUPA/MAL/17/00981, dated 27 July 2017, was refused by notice dated 16 October 2017.
- The development proposed is described as 'change of use of agricultural building to a dwelling house and for associated operational development'.

Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of agricultural building to a dwelling house and for associated operational development, in accordance with the terms of the application, Ref: COUPA/MAL/17/00981, dated 27 July 2017 subject to the following condition.

10. As such, the evidence before me does not indicate the appellant was involved in agriculture between 1988 and 2013. Thus, it is unlikely that the building was in an active agricultural use for the purposes of Class Q on the 20 March 2013. However, this does not mean it has moved away from its historic and lawful agricultural use. Particularly as a planning permission to use the building for purposes unrelated to agriculture has never been granted. On the balance of probabilities, the building was probably last in an active agricultural use as part of an agricultural unit in 1988. As such, it is important to examine whether there have been any lawful intervening uses.

18. Therefore, the complex of barns, including the appeal building, appears to have been used for non-agricultural purposes in 2004, 2006 and 2016. It is unclear whether the non-agricultural uses were for unbroken periods of time, more than intermittent and consistently more than low key. As such, the recorded use of the appeal building as a store and workshop is unlikely to be sufficient evidence to demonstrate that a material change of use of the barn from agriculture to some other use has occurred. Thus the historic and long standing use as an agricultural building has endured. This would suggest that the barn has had a lawful dormant agricultural use since 1988.

COMMENT – Whilst each case is to be dealt with on its own merits **the appeal similarly confirms the latitude that exists with regards to the survival of agricultural usage.**

Between 2016 and March 2021 the barn workshop was occasionally used by a couple of gentlemen to store and tinker with some classic vehicles. Their usage of the barn was **extremely limited** with the area of the barn used and level of attendance by them was so inconsequential that it would be considered de minimis in terms of any non-agricultural usage. The level of non-agricultural activity was analogous with the domestic equipment / associated house move storage in the following appeal example.

Appeal Ref: APP/P1133/W/15/3025096
Building on land at Pathfinder Village (Grid Reference SX837931), Pathfinder Village, Exeter, Devon EX6 6AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by Mr K Authers against the decision of Teignbridge District Council.
- The application Ref 14/03315/NPA, dated 4 November 2014, was refused by notice dated 30 January 2015.
- The development proposed is the change of use of an agricultural building and land within its curtilage to a dwelling.

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class W of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use of an agricultural building and land within its curtilage to a dwelling at Building on land at Pathfinder Village (Grid Reference SX837931), Pathfinder Village, Exeter, Devon EX6 6AF in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph W(2) of the GPDO.

Main Issues

9. Consequently, in view of the above, the main issues are therefore:

    - firstly, whether the proposed development would fall within development permitted by Class Q of the GPDO and not be excluded under paragraph Q.1 by virtue of the fact the site was not used solely for an agricultural use as part of an established agricultural unit at the relevant date or that the proposals related to land in excess of that defined in the definition of curtilage in Paragraph X of Part 3 of Schedule 2 of the GPDO; and

11. The appellant has provided a sworn statement indicating the use of the building has been in agricultural use and was so at the relevant date. A further sworn statement is provided from another party indicating that some of their domestic equipment was stored in the building for a short period while they moved home in August 2014, after the relevant date. There are also comments from nearby residents that state that the site has been in agricultural use. The Council have provided limited evidence to justify its claim that the building was not in agricultural use and the limited use for domestic storage does not amount to a material change of use. The Council have not questioned that the wider field and site are not part of an agricultural holding and the appellant has confirmed that the main field is used for grazing sheep.

12. On the basis of the information before me I have no evidence to suggest that the building was not in agricultural use albeit at the time of my visit it was empty. On the balance of probabilities I conclude that the building was in agricultural use at the relevant date and that there has been no intervening alternative use.

COMMENT – Consistent with the above appeal decision, the Lawful use of the barn has remained agricultural. It is notable that none of the letters objection raised any concerns regarding the non-agricultural use of the barn – **nor could they.**

Appeal Ref: APP/D0840/W/16/3146275
Agricultural building opposite Treweege Row, Trewithen Moor, Stithians, Truro, Cornwall TR3 7DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by Mr Neil Stubbs against the decision of Cornwall Council.
- The application Ref PA15/06538, dated 13 July 2015, was refused by notice dated 14 September 2015.
- The development proposed is the conversion of an existing agricultural building to form a single 2 bedroom dwelling with associated operational development.

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (the 'GPDO') for the conversion of an existing agricultural building to form a single 2 bedroom dwelling with associated operational development at the agricultural building opposite Treweege Row, Trewithen Moor, Stithians, Truro, Cornwall TR3 7DU in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2(1) of the GPDO through application Ref PA15/06538, dated 13 July 2015, subject to the schedule of conditions in this decision.

9. 'Agriculture' is defined in Section 336, paragraph (1) of the *Town and Country Planning Act 1990* as amended as including horticulture, the breeding and keeping of livestock and the use of land as grazing land. Schedule 2, Part 3, paragraph X of the GPDO further sets out that for the purposes of Class Q permitted development rights, 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business.

10. The GPDO further sets out that 'established agricultural unit' means agricultural land occupied as a unit for the purposes of agriculture. I would note that nowhere in relevant legislation or the *Planning Practice Guidance* (the 'Guidance') is there a requirement for such a trade or business to be of a certain scale, intensity or turnover in this context.

I can confirm that against these definitions the application barn has been used solely as an agricultural building as part of an established agricultural unit, pre 2013, on 20 March 2013 and subsequently.

The evidence in this sworn statement removes any ambiguity that the application building has been used for anything other than agricultural usage. There have been no enforcement notices served with regards to non-agricultural usage of the building.

There have been no planning applications **implemented** for change of use of the barn away from agriculture. There is no evidence of any mixed use of the agricultural barn and there is no requirement to show any particular level of activity, only that the building has remained in agricultural use.

If necessary I am happy to obtain further sworn statements from the agricultural contractor and clients that have visited the agricultural building over the last 10 years to confirm its ongoing agricultural usage.

I have put this statement together from conversations with the planning agent; everything I have included within this statement is correct and an accurate reflection of the facts – the only thing the planning agent has done is to put this evidence together in a logical order so that I could respond to the aspects of planning law. I am confident that this my own sworn statement will serve to remove any ambiguity.

I can confirm that the evidence contained within this sworn statement has been prepared in accordance with the guidance on Lawful Development Certificates contained within Circular 10/97 particularly paragraphs 8.12 and 8.15 which states, "As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt". Moreover, the Court has held (see F W Gabbitas 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. If the LPA have no evidence of their own, or 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". Whilst there is no ambiguity as to what is being claimed if necessary additional statements from colleagues and regular clients that I have dealt with over the years can be obtained.

I can confirm that the use of the agricultural building **has always remained in agricultural use** for in excess of 10 years and since prior to March 2013, as part of my farm holding.

