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Sir or Madam
High Peak Borough Council - Planning
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22 December 2016

EP ref: 16-478

John Coxon
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Dear Sir or Madam

Re: Builders Store, Bankwood Mill, Charlesworth, Derbyshire, SK13 5ER – Application for a Lawful Development Certificate for an Existing use or operation

Please find enclosed an application for a Lawful Development Certificate for an Existing use or operation. This is the re-submission of application HPK/2015/0089 which was refused on 27.04.2015.

In support of the previous application, the following evidence was submitted:

- Affidavit of Mr Stephen Dobie, dated 15.01.2015 – site owner;
- Affidavit of Mr Peter Dobie, dated 21.01.2015 – partner and construction director at Loxley Homes; and
- Statement of Mr Terrance Tivey, dated 19.02.2015 – foreman of Loxley Homes.

In addition to evidence previously submitted, the enclosed application includes three additional statements as follows:

- Statement of Mr David Anderson, dated 04.06.2016 – an employee of Loxley Homes;
- Statement of Mr Carl Askham – tenant in the chalet bungalow at Bankwood Mill since 2004; and
- Mr Walter Dobie – Founding Director at Loxley Homes.

Within the refusal notice of application HPK/2015/0089, there are 8 reasons for the decision set out. A response to these reasons is set out below in turn:

1. Sets out the facts of the submission. The three statements referred to have been supplemented by three additional statements as detailed earlier in this letter.

2. Refers to the objection by Mr and Mrs Elliot of Bankwood Mill Farmhouse. In response to these objections, it should be noted that the building in question is not visible from Bankwood Farmhouse and is accessed via a long private drive. Any access onto the site without permission would therefore constitute trespass. In the event that the site was accessed, it is highly unlikely that the door to the building would have been open as the plant, machinery and materials inside are kept secured unless access is specifically required, and it has never been reported to the applicant that Mr and Mrs Elliot trespassed onto the site at a time when Loxley employees were present (i.e. when they were accessing the building). This evidence is therefore highly questionable, and is contradicted by the multiple statements submitted with this application.
3. Refers to the objection by Ms Avery of Bankwood Cottage. Bankwood Cottage is next door to Bankwood Mill Farmhouse and the same comments apply in response to this objection as applied to reason 2 above. It should be noted that this neighbour has only lived in her property for approximately 5 years.
4. Refers to the e-mail from Mr David Anderson dated 16 April 2015. The applicant was surprised by the statement of Mr Anderson, as he has a detailed knowledge of the site and has witnessed the building being used for the storage of company equipment and building materials'. Mr Anderson has therefore subsequently provided a further statement clarifying his comments in this e-mail dated 04.06.2015, and this is included within this application. In summary he confirms that the building has always been used for storage purposes 'but in less of a capacity as it is now used'.
5. Refers to Ms Taylor's knowledge of the site, a planning officer of High Peak Borough Council. Ms Taylor's statement indicated that she had seen the building with the doors open, but had not seen any evidence of the storage use.

We do not question Ms Taylor's integrity or her account of what she saw. However there are a number of reasons why Ms Taylor would not have witnessed the equipment and materials stored within the building. Firstly the building is very large (approximately 27m by 22m) and does not contain any form of windows. It is therefore extremely difficult to see into the building, even when standing at the entrance as it is very dark. For this reason, it is doubtful that anyone on the site (without going right into the building and having the lights switched on) would be aware of the content of building materials and plant machinery stored within the building. Indeed, it would also be extremely difficult to accurately assess the contents of the building from a photograph taken outside. Secondly, for practical reasons, the building materials are stored from the edges of the building inwards, in order that they can be accessed and to leave circulation space for people and equipment to be manoeuvred. This would also make the extent of the storage use of the building extremely difficult to gauge from the outside. We would invite the Council to visit the site and inspect the interior of the building to explore this point further. An internal inspection of the building can be arranged with the applicant.

6. Refers to a planning officer, Mrs Pleasant's, knowledge of the site. The comments in relation to reason 5 above equally relate to reason 6. We would also add that the applicant has never sought to claim that the building is accessed by Loxley employees on a daily basis. No employees are based permanently at the unit. It would therefore be impossible for a visitor of the site to have an accurate knowledge of the use of the building without an internal inspection.
7. Refers to application HPK/2014/0159 for retrospective planning permission of the unit for storage / workshop use. This application was submitted on 07.04.2014 but was not validated and was returned to the applicant. The application was made without professional advice. We understand that some limited workshop uses have taken place within the building (for example, staining / painting of site timber and construction of tree guards which are still stored in the shed), but that any such works would be ancillary to the main storage use. Therefore whilst the workshop use did not need to be listed in the description of development, this is not inconsistent with the application for the CLEUD and does not make

the applicant's version of events any less reliable. As referred to in the further statement of Mr Anderson, some workshop activities do take place within the building, as would be typical in many buildings used for the storage of builder's equipment and materials.

8. Concludes that on the balance of evidence, it is not considered that the building has been used for the storage of plant, machinery and building materials for a continuous period of 10 years prior to the date of application. The additional evidence submitted with this application and the comments on the previous reasons for refusal above robustly demonstrate that the building has been used for the storage of building materials and plant machinery for a continuous period of 10 years prior to the date of this application.

To conclude, the evidence submitted in support of the application is precise and unambiguous. Whilst the evidence against the application (as referred to above) indicates that a number of witnesses may not have been fully aware that the use was taking place, for the reasons set out above it would have been very difficult if not impossible for those persons to have actually witnessed the use without undertaking an internal inspection. Therefore the evidence from other parties does not contradict or otherwise make the applicant's version of events less than probable, and as such the certificate should be granted on the balance of probability.

In addition to the documents listed above, this application is also accompanied by duly completed application forms and a planning application fee payment of £385.

We look forward to your confirmation that the application has been validated.

Yours sincerely
Emery Planning

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Assistant Director