

Supporting Statement

Uplands Farm, Winchester Street, Botley, Hampshire, S030 2AA

1. Introduction

- 1.1 This Supporting Statement is submitted in support of an application for a Certificate of Lawfulness of Existing Development (CLEUD) under section 191 of the Town and Country Planning Act 1990. The purpose of the application is to establish, on the balance of probabilities, that the implementation and continued use of the development at Uplands Farm, Winchester Street, Botley, Hampshire, SO30 2AA (**the Site**) was/is lawful.
- 1.2 The Applicant seeks a certificate confirming that supporting infrastructure for the construction of 3 no. noise bunds and associated acoustic fencing (**the Material Operations**) were effective to implement the planning permission described in Section 2 below and that the same permission thereby remains extant.
- 1.3 The Applicant relies upon documentary and photographic evidence to demonstrate that the material operations lawfully implemented the planning permission.

2. SITE AND DEVELOPMENT HISTORY

- 2.1 The planning history relevant to this application is as follows:

- 2.1.1 On 24 March 2022 Eastleigh Borough Council (**EBC or the LPA**) granted Outline Planning Permission (**OPP**) under reference O/18/83698 following an application made by the Applicant in August 2018. The description of development for which permission was granted is as follows:

"Erection of up to 375 no. dwellings, public open space, allotments, drainage, landscaping, other supporting infrastructure and mitigation measures associated with the development 2 no. new accesses onto Winchester Street, associated on site roads, footpaths/cycleways and setting of Public Right of Way (route number 3). Detailed matters for consideration access (all other matters reserved- scale, appearance, landscaping and layout)".

- 2.1.2 The OPP was granted subject to conditions, including:

- (a) Condition 1, which set the time limits within which the OPP was required to be implemented (being within 4 years of the date of grant, or 3 years of the approval of the last reserved matters); and
- (b) Condition 2, which required the first reserved matters approval for the development to have been submitted within two years of the date of grant of the OPP.

- 2.1.3 The OPP was also granted subject to a Section 106 Agreement dated 24 March 2022 (the **OPP S106**).

- 2.1.4 On 29 August 2024, EBC granted a reserved matters application (reference: RM/24/97106) following an application made by the Applicant on Friday 22 March 2024¹ in accordance with Condition 2. The description of the development for which the approval was granted is as follows:

"Reserved Matters for the delivery of the biodiversity enhancement phase of Outline Planning Approval O/18/83698 for the erection of up to 375 no. dwellings, public open space, allotments, drainage, landscaping, other supporting infrastructure and mitigation measures associated with the development. 2 no. new accesses onto Winchester Street, associated on-site roads, footpaths/cycleways and setting of a Public Right of

¹ Please note that there is an error on the decision notice for this reserved matters application as it states the application was submitted on Monday 25th March 2024 when in fact it was submitted on Friday 22nd March 2024.

Way (route number 3). Detailed matters to be considered: scale, appearance, landscaping and layout."

- 2.1.5 On 20 March 2025, EBC granted a further reserved matters application (reference: RM/25/98746) following an application made by the Applicant on 17 January 2025. The description of the development for which the approval was granted is as follows:

"Reserved Matters for the construction of 3no. noise bunds and associated acoustic fencing phase of Outline Planning Approval O/18/83698 for the erection of up to 375 no. dwellings, public open space, allotments, drainage, landscaping, other supporting infrastructure and mitigation measures associated with the development. 2 no. new accesses onto Winchester Street, associated on-site roads, footpaths/cycleways and setting of a Public Right of Way (route number 3). Detailed matters to be considered: scale, appearance, landscaping and layout."

- 2.2 The Applicant has not provided copies of the above decisions and approvals as these are all available on the LPA's planning register.

3. LAWFUL IMPLEMENTATION AND COMMENCEMENT

- 3.1 The approved development was lawfully commenced on 10 July 2025 through the implementation of works authorised by RM/25/98746. Material operations sufficient to commence the permission within the meaning of section 56 of the TCPA 1990 occurred on this date.
- 3.2 The works comprised construction of all 3no. noise bunds, apart from the section of earth bund underneath the 33kV power cables pending cable diversion anticipated in Q3/4 2026, as evidenced by site photographs from the contractor's drone survey on 28 July 2025, showing noise bund construction progress.
- 3.3 The works undertaken were referable to and consistent with the OPP (including the RMAs referenced above).
- 3.4 The extent and nature of the works demonstrate more than de minimis activity and constitute a lawful commencement which has preserved the permission.

4. COMPLIANCE WITH PLANNING PERMISSION AND CONDITIONS

- 4.1 The Material Operations as built to date accord with the approved plans and conditions attached to permission O/18/83698 including reserved matters approval RM/24/97106 and reserved matters approval RM/25/98746.
- 4.2 Pre-commencement conditions were discharged prior to commencement as evidenced by approvals available on the LPA's planning register.
- 4.3 Any pre-occupation conditions will be satisfied prior to first use of the development.
- 4.4 There have been no breaches of condition, operational deviations, or changes of use outside the scope of the permission. No enforcement notices have been served and no breach of condition notices have been issued.

5. LEGAL FRAMEWORK AND BURDEN OF PROOF

- 5.1 Under section 191 of the Town and Country Planning Act 1990 and associated provisions, the test is whether, on the balance of probabilities, the use or operations are lawful. The Applicant's evidence is sufficiently precise and unambiguous to discharge that burden. In accordance with established practice, where the Applicant's evidence is unchallenged and credible, it should be accepted. The decision turns on evidence rather than planning merits. The accompanying documentary exhibits meet the requisite evidential standard.

6. PLANS, DRAWINGS AND IDENTIFICATION OF THE LAND

- 6.1 A site location plan at 1:1250 is provided, edged in red to identify the land to which the application relates.

7. CONCLUSION

- 7.1 The evidence demonstrates that the development was lawfully implemented pursuant to planning permission O/18/83698 with valid commencement occurring on 10 July 2025, within the timeframe set out within Condition 1, and constructed in accordance with the approved plans and conditions. On the balance of probabilities, the Local Planning Authority is respectfully invited to grant a Certificate of Lawful Existing Use or Development confirming the lawful implementation of planning permission O/18/83698.

8. SUPPORTING DOCUMENTS

- 8.1 Site photographs, site location plan with red edging.

Dated 12 February 2026