

Sam Grant

From: Sam Grant
Sent: 22 January 2025 16:14
To: David Paull
Cc: Neil Howat
Subject: RE: Frys Bottom - 23/00023/UNDEV 178786/2

Dear David,

Thank you for your email and sorry for the delay in coming back to you.

I will address each of your proposals below:

1. CLEU for the mixed use of the site – This does not cover all of the uses that the Council have identified in the Enforcement Notice, mainly the waste transfer element. In addition, your client has been stating this application was “ready to submit” for nearly 3 years now and yet nothing has been submitted to date. During our meeting we requested the evidence that would be submitted with this CLEU, so it is disappointing that this has not been provided, considering that in Ed’s words “all I have to do is press submit”. I find it perplexing why you are choosing not share the evidence with us at this time, as you must have it.
2. CLEU for the “Old Weighbridge House” - I am pleased to see that you agree that at least part of the structure is not substantially completed and therefore not immune from enforcement action, however I am unsure what exactly you would be applying for here, as if you were to apply and get the above certificate this would include the use of the Old Weighbridge House (unless it was excluded). If this certificate would be to try and confirm the lawfulness of the building operations carried out to the Weighbridge House, it would raise the cases of Ewen Developments Ltd v SoS & North Norfolk DC 6/2/80 and Worthy Fuel Injections Ltd v SoS 23/7/82 that clarified that a building constructed gradually, over the course of time, is one operation, even though parts of the structure or development had been constructed more than 4 years prior to the service of an enforcement notice. Thus, any operational development carried out more than 4 years prior to the issue of an enforcement notice, would not be immune from enforcement action, unless the development as a whole was substantially completed at least 4 years prior to the issue of the notice.

Taking the above into account, the council consider the incremental extension of the building over years as one building operation that is not currently substantially completed and therefore cannot be immune from enforcement action.

3. Full application for the retention of the ponds – I consider that you will not be able to overcome the policy conflicts raised in the draft enforcement notice.
4. Full application for the retentions of the Woodland Tracks - As stated in the draft enforcement notice, I consider that the tracks are not solely used for agricultural/forestry purposes, are constructed of inappropriate materials and are larger than is necessary for their intended use. I therefore consider that you will not be able to overcome the policy conflicts set out in the draft enforcement notice and this application would have a low probability of success.

Considering our positions set out above, the Council will not be inviting the applications proposed in your email of 17th Jan and will be moving forwards with the service of the enforcement notices

shared with you in November last year (there may be some minor amendments). Your client be able to appeal these notices including under ground (a) should they wish.

I trust the above is clear, however should have any questions please let me know.

Regards,

Sam Grant MPlan MRTPI

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****Please note: We are currently experiencing a significant increase in workload in the Enforcement Team which is having an impact on our ability to respond within our published service standard timescales. We are having to prioritise cases and workloads carefully and whilst we will review each case and query received, it may take longer than usual to respond****

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RTPI (SW) Award for Planning Excellence 2023 – Winner
RTPI (SW) Award for planning Excellence 2024 - Shortlisted

From: David Paull [REDACTED]
Sent: 17 January 2025 14:29
To: Sam Grant <Sam_Grant@BATHNES.GOV.UK>
Cc: Neil Howat <Neil_Howat@BATHNES.GOV.UK>
Subject: FW: Frys Bottom - 23/00023/UNDEV 178786/2

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Dear Sam

It was good to meet you.

I confirm that we are instructed to make the following applications on behalf of my client:-

1. Certificate of lawfulness for a mixed use site for Forestry, Selling of Firewood, Open Air Storage and Distribution and stables.
2. Certificate of Lawfulness for the Old Weighbridge House (minus the extension from a few years ago) for mixed use associated with the operations on site (storing of wood, equestrian, forestry, storage)
3. Full Application for the retention of the ponds
4. Full Application for the retention of the woodland track

My client is also agreeable to the removal of the wooden structure on site which is shown circled in red in Image 1a in the attached draft notice.

Please confirm how long you are willing to grant us to provide evidence in support of these applications for your review and/or the submission of the applications and that you are willing to desist from serving the draft notices as enforcement notices during those agreed period(s).

I look forward to hearing from you.

Regards

David

David Paull

Solicitor

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