

Memorandum



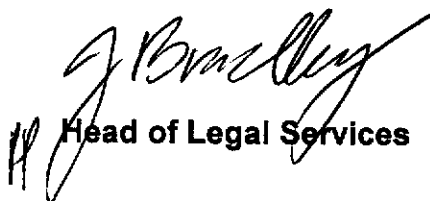
**Rochford District
Council**

To: Head of Planning Services
cc: Mike Stranks
From: Head of Legal Services
Date: 10th October 2006
Ext: 3711
Ref: JB/30383

Town and Country Planning Act 1990 – Section 191
Application for a Certificate of Lawful Development
At Willesdale, Lambourne Hall Road, Canewdon
06/00717/LDC

With regard to the above, please find attached completed Lawful Development application, which is self-explanatory, along with your files.

If you have any questions regarding the above, please do not hesitate to contact me.


Head of Legal Services



INVESTOR IN PEOPLE

DIRECTORATE OF INTERNAL SERVICES

Head of Legal Services

A J Bugeja, BA(Hons.)
Barrister

My Ref: JB/30383
Your Ref: 03 LN Rushbrook

Ask for: Jennifer Bradley
Ext: 3711
Direct Dial:

Email: jennifer.bradley@rochford.gov.uk
Website: www.rochford.gov.uk



Rochford District Council

Council Offices South Street
Rochford Essex SS4 1BW

Telephone: 01702 546366
DX 39751 Rochford
Facsimile: 01702 318154

Date: 10th October 2006

Dear Mr & Mrs Rushbrook,

Town and Country Planning Act 1990 – Section 191
Application for a Certificate of Lawful Development at Willesdale, Lambourne Hall
Road, Canewdon
Reference: 06/00717/LDC

1. I refer to your application dated the 24th August 2006 requesting a Certificate of Lawful Development, in breach of an agricultural occupancy condition contained in Planning Permission EEC/ROC/139/50 and EEC/ROC/210/50.
2. The application submits that you have failed to comply with an agricultural occupancy condition contained in the above planning permissions, whilst you both have resided at the above property in excess of ten years. The agricultural occupancy condition states: "That the building be occupied by a person (or persons) whose employment or latest employment is or was employment in agriculture as defined by section 119(1) of the Town and Country Planning Act 1947, or in forestry, or in an industry mainly dependent on agriculture, and also the dependents of such persons as aforesaid".
3. Section 191 of the Town and Country Planning Act 1990 ('the Act'), enables an applicant to apply to the Local Planning Authority for a Lawful Development Certificate, if the Local Planning Authority is satisfied on the evidence submitted, that the applicants have failed to comply with a condition to which planning permission has been granted and the time for taking enforcement action has expired, it shall issue a certificate to that effect and in any other case it shall refuse the application.

Robinsons Solicitors
DX: 141404 Shoeburyness



INVESTOR IN PEOPLE

4. In determining this application I have considered all the evidence submitted by the applicants, along with all the information available to the Authority on the property.
5. The basis of the application is that the above condition 1 contained in planning permissions EEC/ROC/139/50 and EEC/ROC/210/50 have not been complied with for more than ten years, thus rendering the breach of condition immune from enforcement action under section 171B(3) of the Act.
6. You confirm that you moved to Willesdale, Lambourne Hall Road, Canewdon in 1995 and have supplied a copy of your purchase deed dated the 24th May 1995. It is stated that you moved to this property in order to retire and have never been employed in agriculture or carried out agricultural activities from the property. In your letter of the 7th September 2006 you say that you previously lived at 123 Wakering Road, Shoeburyness, for 35 years and traded as a general dealer until 1980. During the next fifteen years you commenced a new business boarding domesticated cats from that property, before you both retired to your current property, Willesdale, Lambourne Hall Road, Canewdon, where you both have resided ever since.
7. A letter was received in support of your application from an E.J. Toleman, of Homestead Lambourne Hall Road, who confirmed that no agricultural activities had been carried out at the property in the past ten years.
8. I am required to consider on a balance of probabilities whether the failure to comply with the agricultural occupancy condition 1 in planning permissions EEC/ROC/139/50 and EEC/ROC/210/50, is lawful, because the time for taking enforcement action has expired. After considering the above evidence it is clear that condition 1 has not been complied with continuously, from May 1995 when you moved into the property, to the date of this application. Therefore condition 1 has been breached for over ten years and is immune from enforcement action and because I have no other evidence before me to contradict that information, I will issue a certificate to that effect.
9. A Certificate of Lawful Development is enclosed permitting the continued occupation of Mr & Mrs Rushbrook in breach of an agricultural occupancy condition, at the property known as Willesdale, Lambourne Hall Road, Canewdon, Essex.

Yours sincerely



Head of Legal Services



ROCHFORD DISTRICT COUNCIL

06/00717/LDC


TOWN AND COUNTRY PLANNING ACT 1990: SECTIONS 191 and 192
(As amended by Section 10 of the Planning and Compensation Act 1991)

Town and Country Planning (General Development Procedure) Order 1995: Article 24

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Rochford District Council hereby certify that on 24th August 2006 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto would have been lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended), for the following reasons(s):-

No Enforcement action may be taken in respect of the use because the time for enforcement action has expired.

Signed 

Head of Legal Services

On behalf of Rochford District Council

Dated..... 10th Oct 2006

First Schedule

The residential occupation of the land described in the second schedule without compliance with planning condition 1 of planning consent EEC/ROC/ 139/50 dated the 4th August 1950 and EEC/ROC/210/50 dated the 7th November 1950 only permitting occupation by persons employed in agriculture, forestry or an industry mainly dependant on agriculture and their dependants.

Second Schedule

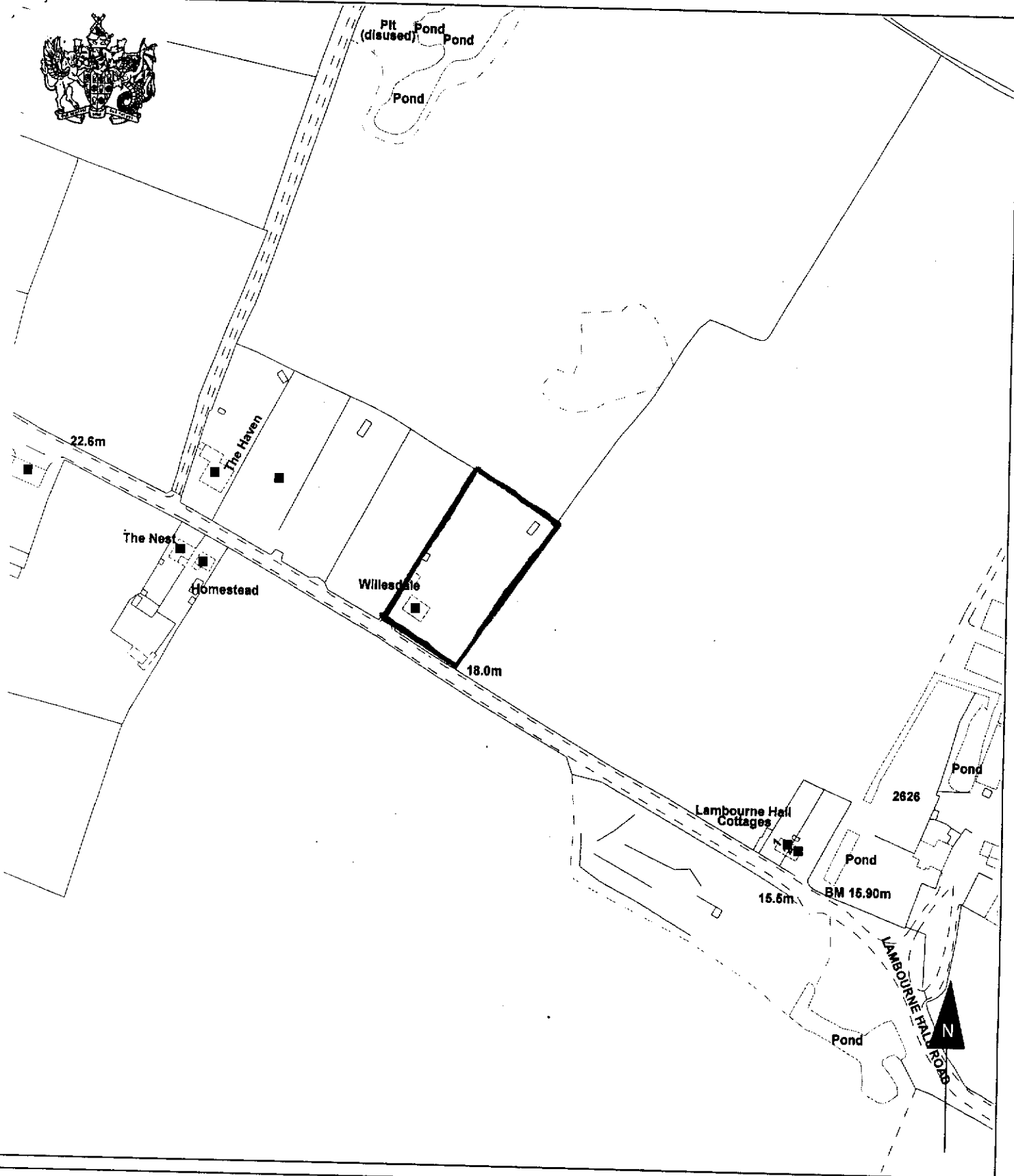
Willesdale, Lambourne Hall Road, Canewdon, Essex, edged red on the attached plan.

Notes

1. This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the failure to comply with the condition in the First Schedule on the land described in the Second Schedule would have been lawful, on the specified date and, thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.

3. This certificate applies only to the extent of the failure to comply with the condition described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any other failure to comply with a condition or limitation carried out on the land without planning permission from that described may render the owner or occupier liable to enforcement action.

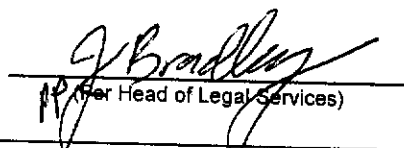
Sol/lawfuluse2(w)



Scale 1:2500

This is the plan attached to the Determination of Application
reference 06/00717/LDC dated 10th October 2006

and referred to in the certificate of lawful use


(For Head of Legal Services)

Authority	Rochford District Council
Department	Legal Services
Date	