

Planning Statement

Certificate of Lawfulness:
Existing Development of a Sand School

Land to the north-west of Myrtle Grove Farm
Patching, West Sussex BN13 3XL

18th January 2012

Reference: 10025 AR/IWC/

1. Background

- 1.1 This application seeks a Certificate of Lawfulness (CoL) for an existing development consisting of an equestrian sand school, and is being submitted in conjunction with a separate application seeking a CoL for the use of the land for equestrian activity. This application will focus purely on the existing operational development that is the sand school, and present evidence to corroborate that the development has existed for over 4 years.
- 1.2 The applicant was served a Planning Contravention Notice on the 30th August 2011 (ref: ENF/371/11) related to the development. The answers to this notice help form part of the evidence supporting this CoL.

2. Proposal

- 2.1 The site is located approximately 6 km north west of Worthing within an area of open countryside characterised by large agricultural fields and rolling hills. The area of land which has been used for equestrian use is approximately 2 hectares in size and extends in a north westerly direction to the rear of the property.

3. Planning History

- 3.1 There is a history of approved applications for equine activity at the property;
- 3.2 Application Ref: PA/27/09/ sought the erection of 1x stable 10' x 12' (3.6m X 3.0m), and was approved on 09/04/2010
- 3.3 Application Ref: PA/13/09/CLE sought an application for certificate of lawfulness for existing stable buildings and was approved on 23/11/2009

- 3.4 In terms of the last application referenced, evidence was presented to show that horses had been using parts of the site since at least 1992. A Certificate of Lawfulness for existing development was granted for a number of stables existing on the property.

4. Planning Law and Certificates of Lawfulness

- 4.1 Section 171B(1) of the Town and Country Planning Act 1990 states that;

"Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

"In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach."

- 4.2 As the application relates to operational development of a sand school, 4 years of its existence will need to be evidenced. In presenting evidence, Annex 8 of Circular 10/97 states that the burden of proof is on the appellant, and the Courts have held that the relevant test of the evidence on such matters is "the balance of probability".
- 4.3 However, the 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 Gabbitts 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.

- 4.4 Furthermore, the LPA should proceed on the basis that neither the identity of the applicant, nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application.

5. Evidence

- 5.1 The evidence needs to show that the sand school has existed on the land since December 2007. The evidence consists of two signed statements;

- (1) Attached in Appendix A is a receipt from Charles Ransford & Son Ltd for the delivery of Equestrian Bark Free Woodfibre which is the wood chip surface for the sand school. Deliveries took place between the 21st and 23rd March 2005.
- (2) Attached in Appendix B is a receipt from N.A. Jordan for the construction of a horse arena finished in wood chips. It states that the work was completed on the 2nd April 2005.
- (3) Attached in Appendix C is a statement from Ms Emma Penn who has kept horses on land at Myrtle Grove for over 15 years. She states that in Spring 2005 the sand school was constructed on the application land and has been used by the owners for riding and turnout of horses.

6. Conclusion

- 6.1 Planning law states that if operational development has existed for four years, it becomes lawful. The evidence presented proves the sand school has existed on the land for at least this period of time. Case law states that if the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's evidence less than probable, there is no good reason to refuse the application. On this basis, we respectfully ask that the Certificate is granted.



Appendix **A**

Charles Ransford & Son

Delivery of wood chips: March 2005

CHARLES RANSFORD & SON LTD

Timber Merchants & Sawmillers

STATION STREET • BISHOP'S CASTLE • SHROPSHIRE SY9 5AQ
Telephone: (01588) 638331 • Fax: (01588) 638853

J.D. COPY

V.A.T. Registration No. 315 1419 91 Minimum 70% FSC No.: 037/TT-COC-1931

INVOICE ADDRESS

DELIVERY ADDRESS

DELIVERY NOTE No

Mr John and Mrs Anna McArthur

C 32335

Myrtle Grove Cottage

Off Long Furlong

Patching

West Sussex

BN13 3XL

PROOF OF DELIVERY

DELIVERY DATE

THEIR ORDER No

HAULAGE METHOD

Monday 21st, 22nd and 23rd March 2005

m

Lewis

QUANTITY

DESCRIPTION

Top Copy: Back to Ransfords

Pink Copy: Retained by customer

1st of 3 loads : Monday 21st March

50 cubic metres of Equestrian Bark Free Woodfibre

PLUS 2 EQUIROLLS TO GO ON FIRST LOAD

Received By.....

2nd of 3 loads : Tuesday 22nd March

50 cubic metres of Equestrian Bark Free Woodfibre

Received By.....

3rd of 3 loads : Wednesday 23rd March

50 cubic metres of Equestrian Bark Free Woodfibre

Received By.....

CONTACT PHONE NUMBER..... MOBILE NUMBER.....

RECEIVED FOR ON BEHALF OF CUSTOMER..... NAME (PRINT)



Appendix **B**

N.A. Jordan

Construction of horse arena: April 2005

N.A.JORDAN

AGRICULTURAL/PLANT HIRE

Invoice No: 577

Invoice Date: 3/4/2005

**Customer: Mr & Mrs. J. McArthur,
Myrtlegrove Cottage,
Off Long Furlong,
Patching,
Worthing,
West Sussex,
BN13 3XL**

Job ref: To construct horse arena finished in wood chips at the above address.

Work done: 21/3/2005 – 2/4/2005

**Price includes; labour, plant machinery and tools.
Railway sleepers, wooden pegs and nails.**

Wood chips and geotextile membrane supplied by customer.

Price as agreed

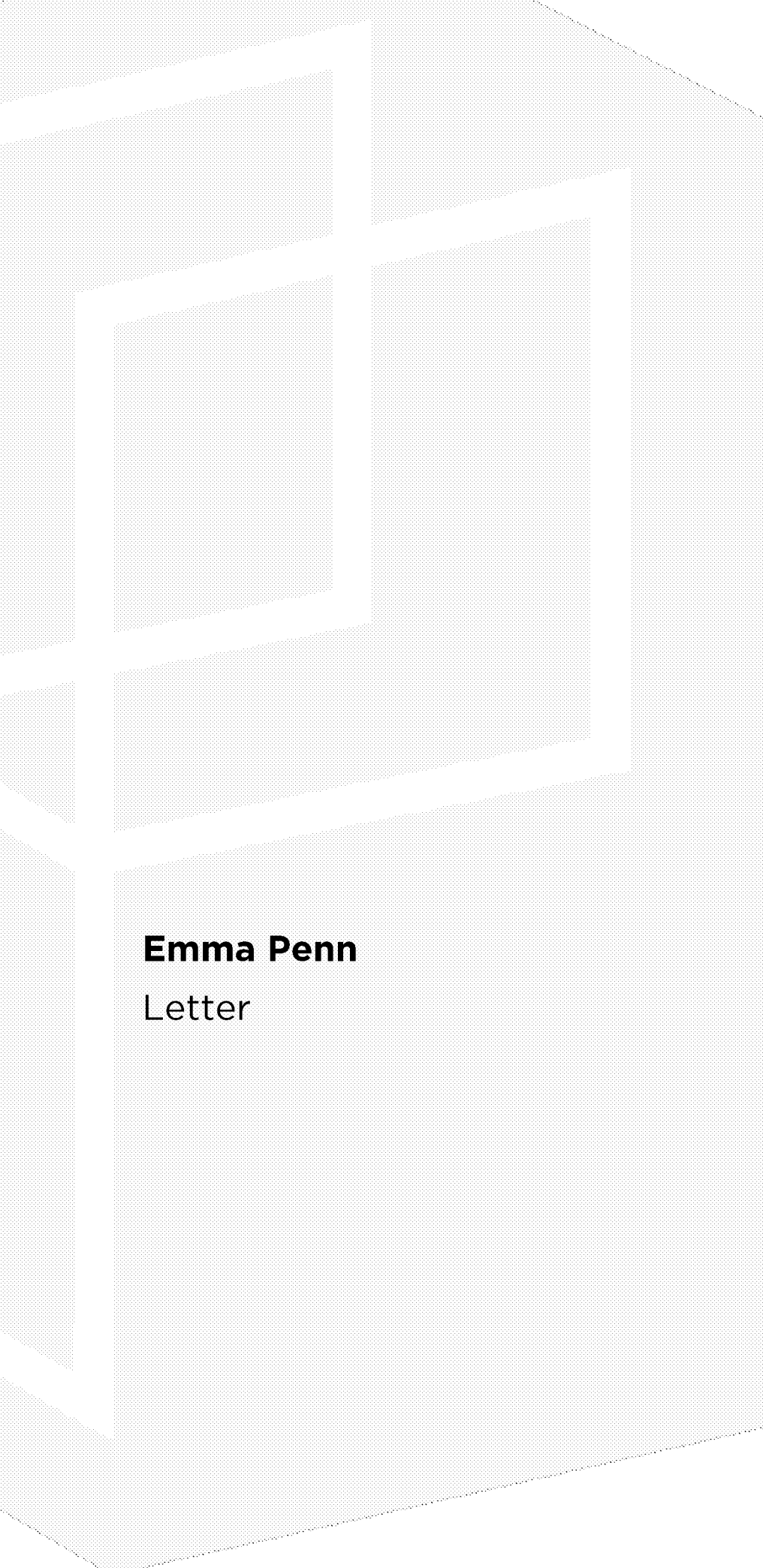
£3008.50

TERMS : PAYMENT ON COMPLETION PLEASE

TOTAL : £ 3008.50

VAT @ 17.5% £ 526.49

INVOICE TOTAL:£ 3534.99



Appendix **C**

Emma Penn

Letter

Emma Penn
18 The Limes
Rustington
West Sussex
BN16 3AQ

13th December 2011

Dear Mr Sullivan

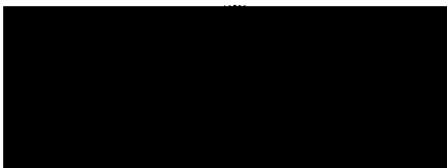
Re: 128 Myrtle Grove Cottage Patching BN13 3XL

I confirm I have lived at the above address for the past three years.

I have kept my horse at Myrtle Grove for over fifteen years and can confirm that during this time the land belonging to 128 Myrtle Grove Cottage has always been used for the keeping of horses both for grazing and riding.

I can also confirm that in Spring 2005 a school was constructed on this land and has been used by the owners for riding and turnout of their horses.

Yours faithfully

A large black rectangular box redacting the signature of Emma Penn.

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Thank you.

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