



SUPPORTING STATEMENT
APPLICATION FOR A CERTIFICATE OF LAWFULNESS
RELATING TO THE USE OF LAND AS PART OF A DOMESTIC
GARDEN WITH ASSOCIATED WORKS AT 1B BROOMHILL, PORT
TALBOT, SA13 2US

On behalf of
Mr R Herbert

Our Ref: 1687.c
Date: June 2026
Prepared by: JDE

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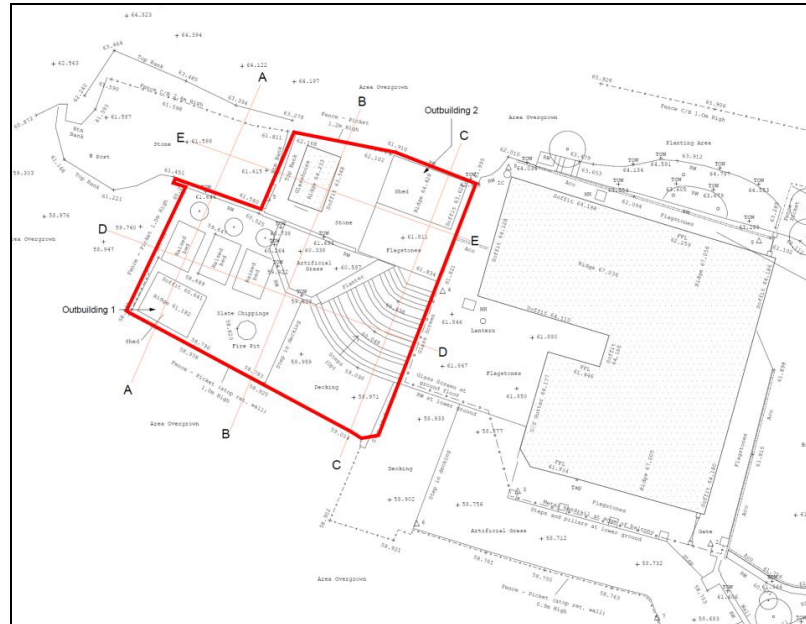
1.0 INTRODUCTION

- 1.1 Evans Banks Planning has been instructed by Mr R Herbert (the Applicant) to prepare and submit an application for a Certificate of Lawfulness for the use of land as part of the domestic garden with associated works at 1B Broomhill, Port Talbot, SA13 2US.
- 1.2 This application is made under the provisions of the Town and Country Planning Act 1990 (as amended) and relates to the area edged red on the accompanying plan.
- 1.3 This Statement is therefore submitted in support of the application in question, through providing the following information, making reference where necessary to the accompanying submitted items of evidence:
- A brief description of the site and surrounding area
 - Legal Context for Consideration of Case
 - Evidence of Use

2.0 SITE DESCRIPTION

2.1 THE SITE AND SURROUNDING AREA

2.1.1 The application relates to an area of land directly to the rear (west) of the Applicant's dwelling, edged and circled red below.



Plan A



Photograph 1

2.1.2 At present, the application site is split over two levels, with a set of steps connecting the two, as illustrated in the photographs below.



Photograph 2



Photograph 3

2.1.3 As can be seen from Photograph 2, the upper level includes an area covered in patio slabs upon which there is a wooden outbuilding. Beyond this then is an area of clean stone, upon which there is a greenhouse, which has been in place since prior to November 2021. The area occupied by the patio slabs has been hard surfaced and occupied by outbuildings/garden structures for a considerable number of years, as illustrated by the aerial photograph (Source: *Google Earth*), dated 18th April 2015.



Photograph 4

- 2.1.4 Separating the two levels then is a retaining wall (constructed and in place by November 2020), which extended an existing feature further west. The original extent of the retaining wall is now largely hidden by a series of new steps, seen in the bottom right-hand corner of Photograph 3.
- 2.1.5 The lower level of the application site (shown in Photograph 3) includes a series of raised beds (installed prior to July 2020) and a further wooden outbuilding. The lower area then consists of a decked area in its eastern half (installed prior to April 2022), with its remaining western half then covered in a layer of crushed slate.
- 2.1.6 Originally when the property was bought by the Applicant, the lower half of the application site had a more uniformed sloped appearance, illustrated by the photograph below, taken on 3rd July 2020.



Photograph 5

- 2.1.7 However, in order to create a more level and so useable space, the Applicant undertook works to the lower half through land raising and the construction of a retaining wall feature just within the application site's southern boundary. The former picket fence was then re-installed on top of the new retaining wall, continuing to link up with the retained element running along the western boundary. Works associated

with these elements are illustrated below, with Photograph 6 of the excavated footing for the wall taken in February 2022 and Photograph 7 taken in April 2022.



Photograph 6



Photograph 7

2.1.8 In historic terms, the appeal site and wider property was purchased by the Applicant in 2018. Whilst the application site (the area subject of this appeal) was at the time in the ownership of Mr and Mrs James, an agreement has been made between the respective parties for the transfer of ownership between Mr and Mrs James and the Applicant (please refer to the accompanying letter from Mr Joe James). This is perhaps unsurprising, as the land had been used as part of the domestic curtilage of

1B Broomhill by the previous owners since 1991, as detailed in the accompanying Statement of Truth from [REDACTED] The historic use of the application site as a domestic garden is also corroborated by Statements of Truth from [REDACTED] copies of which accompany this application submission.

- 2.1.9 On the ground, there is also historic evidence of the former extent of the garden area, represented by a number of concrete posts still present, which formed the post-and-wire boundary treatment in place prior to the Applicant's purchase of the property. One of these is illustrated in the recently taken photograph below and it and others can still be seen on site today.



Photograph 8

- 2.1.10 In terms of access to the application site, this is gained directly from the adjoining remaining curtilage area of the domestic property. Access is gained to both levels of the appeal site, and as detailed above, these two elements are then linked by a series of steps.

3.0 LEGAL CONTEXT

- 3.1 From discussions with the Applicant and others, it is clear that the land subject of this application has been used for the purposes of a domestic garden for some time. In addition, it is also clear that the operational development (ground works, retaining walls etc.) have also been in place for some time. Through this application therefore, the Applicant wishes to regularise the situation.
- 3.2 Under the provisions of the Town and Country Planning Act 1990, Section 171B sets out a series of time limits where should certain changes of use take place for a set period of time or forms of development have been in place for a set period of time, no enforcement action may be taken.
- 3.3 In the case of the change of use of land or buildings, Section 171B (3) outlines that evidence must be provided to demonstrate that the change of use has taken place for a period of at least 10 years. In the case of the application proposal, the property has clearly been used for the purposes of a domestic garden for in excess of 10 years.
- 3.4 In the case of building, engineering, mining or other operations (commonly referred to as 'operational development'), Section 171B (1) outlines that evidence must be provided to demonstrate that such works have taken place at least four years ago beginning with the date on which the operations were substantially completed. In the case of the application proposal, the works have clearly been substantially complete for in excess of 4 years and include the following:
1. Carrying out of groundworks and retaining works to create terracing.
 2. Construction of a steps
 3. Construction of decking
- 3.5 It is therefore on the basis of the above that evidence has been obtained and is now presented in support of this application, with the accompanying drawings providing a record of the garden area as it currently stands and as described in Section 2.

4.0 EVIDENCE OF USE AND DEVELOPMENT

4.1.1 Through discussions with the Applicant and others, as well as examining the available evidence, it has been established that the use of the land for the purposes of a domestic garden and its associated operational development have taken place beyond the timescales referred to in Section 3 of this Statement and so are now immune from Enforcement.

4.1.2 The above has been confirmed through a number of items of written evidence, which are as follows:

- Extracts of historic Sales Particulars from Zoopla
- Statement of Truth by [REDACTED]
- Statement of Truth by [REDACTED]
- Statement of Truth by [REDACTED]
- Statement of Truth by [REDACTED]
- Statement of Truth by Mr Rohan Herbert

Use of Land

4.1.3 As can be seen from the extracts of historic sales particulars from the online marketing website Zoopla, the application property has been on the market twice in the last 11 years – in 2015 (when it failed to sell) and in 2018.

4.1.4 In the 2015 extract, the 'Outside' area was described as follows:

“Tiered enclosed garden to the rear with mature planting, trees and shrubs. Balcony area giving elevated views over Swansea Bay. Pond, Storage sheds, Greenhouse, Steps leading to decked area. “

- 4.1.5 The sales particulars also include a photograph taken from within the area edged red on Plan A of this Statement, looking back towards the balcony on the southern elevation of the dwelling, reproduced below.



Photograph 5

- 4.1.6 Ornamental fencing and an archway can be seen leading into the area edged red on Plan A, as well as the well-trodden path between the two areas, clearly indicating regular usage of the application site area by occupants of the dwelling at that time.
- 4.1.7 The second extract of the historic sales particulars relates to when the property was purchased by the Applicant and again provides a description of the 'Rear Garden', which was as follows:

“Side and rear garden approximately one third of an acre of well maintained gardens set out in three tiers, briefly comprising of a variety of flowers/shrubs and a decked patio area.”

- 4.1.8 The description reinforces that provided in the 2015 particulars, as well as providing a figure for the overall area occupied by the dwelling and its garden spaces, which remains the same to this day (i.e. circa a third of an acre).

4.1.9 The historic sales particulars therefore provide a clear indication that from at least 2015 the area of land edged red on Plan A of this Statement was clearly in use as a domestic garden, forming part of the residential property known as 1B Broomhill, Port Talbot.

4.1.10 In support of the above, this application submission is supported by 5 Statements of Truth. 3 of these are from those who lived or are living at the property, with 2 further ones being from neighbours in close proximity of the application property.

4.1.11 In terms of the occupants of 1B Broomhill ([REDACTED] and Mr R Herbet), in combination, they provide a clear picture that the area edged red on Plan A of this Statement has been used as a domestic garden in conjunction with the adjoining dwelling since 1991. The details provided by the three Statements are consistent in the picture they present, as well as supporting the evidence provided by the aforementioned historic sales particulars.

4.1.12 The above is further supported by the Statements provided by [REDACTED], who again present evidence that the land in question has been used as a garden area since 2004 and 2018 respectively.

Operational Development

4.1.13 Under the requirements of Section 171B (1), the applicable date is 21st May 2022. In support of those elements constructed/introduced onto site by the Applicant since their purchase of the property, the following evidence accompanies this application submission.

- Statement of Truth by Mr Rohan Herbert

4.4.1 As can be seen from the aforementioned Statement, a series of works have been undertaken – consisting of operational development – since their purchase of the property in 2018, to the end of April 2022. All works referred to in the Statement have therefore been undertaken and completed before 21st May 2022. Having therefore

been undertaken at a point in time prior to this date, under the provisions of Section 171B, such works are therefore immune from Enforcement Action.

- 4.4.2 In view of the above, both in terms of the change of use and the forms of operational development, it is quite clear that under the provisions of Section 171B of the Town and Country Planning Act 1990 (as amended), no enforcement action could be taken in respect of such matters.

5.0 SUMMARY AND CONCLUSION

- 5.1 This application is for a Certificate of Lawfulness for the use of land as part of the domestic garden with associated operational development of 1B Broomhill, Port Talbot, SA13 2US.
- 5.2 This Statement is supported by a range of written visual evidence that clearly demonstrates that the application property has been used for purposes of a domestic garden for at least the last 10 years, with the associated operational development being in place for over 4 years.
- 5.3 In view of the above and the accompanying evidence, it is therefore clear that the application meets the requirements of all relevant sections of the relevant Act and that a Certificate of Lawfulness be issued in relation to the use in question.