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As the information below contain sensitive context (including pricing of the roller shutters and photos of a minor) please make sure that this document is made confidential and not published unless redacted.

Date 23rd of September 2021

Dear Sir/Madam

Please find enclosed Statement for Planning Appeal for a Certificate of Lawfulness of an Existing Use or Development (CLEUD) under Section 191 of the Town and Country Planning Act 1990 (as amended) (the '1990 act') - for **2 Peterchurch Walk, Manchester, M11 2LQ – Lawful external roller shutters at the back of to the dwelling house.**

Overview

A Certificate of Lawfulness is a legal document rather than a planning permission. In order for such a certificate to be granted the planning authority needs to be satisfied that, on the balance of probabilities, the roller shutters have been in situ for four-year time period. The planning merits of the development are not material considerations, and this report does not therefore make an assessment of planning policies.

Section 191 of the 1990 Town and Country Planning Act (as amended) allows an Applicant to apply for the determination, in law, by the Local Planning Authority, that the matter applied for is not development requiring planning permission. In all such cases, the onus of proof is on the Applicant and the factual information submitted in support of the application by the Applicant forms the basis of the decision, in law, taken by the Local Planning Authority.

The relevant test of the evidence on such matters is "the balance of probability". The Court has held (see *F W Gabbittas 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, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), 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.

In the essence, the CLEUD sought seeks confirmation of the lawfulness of the existing roller shutters within the dwelling house.

As expanded upon below existing operation, installed roller shutters is lawful because:

- 1) There is documentary evidence that the roller shutters were in situ in June 2017 – this is a period in excess of four years from today's date (the maximum period within which any works undertaken would be at risk of enforcement action under S171B (1) of the 1990 act (as amended)).

The roller shutters are in fact lawful, and the CLEUD ought to be issued, based on (1) in isolation – in fact its' lawfulness is confirmed by virtue of above stipulation being complied with.

We expand upon these points below.

Timeframes for enforcement action

The roller shutters were purchased in Poland in May 2015 (Appendix 1) as shown on the receipt below (Faktura VAT), once they were delivered to UK, they were installed by SOS Services in June 2017 as shown on the enclosed Invoice (Appendix 2). In addition, we also enclose photos of our daughter after the roller shutter were installed in comparison with the current photo (Appendix 3) showing that the roller shutters were in situ in 2017.

On 29th June 2021 we have received a letter from the planning enforcement team asking for removal of the roller shutters. However, based on the information provided by us it is considered that the installation of the external roller shutters at the back of the dwelling house is now lawful (as it was "begun" prior to 29th of June 2017)

Irrespective of this the scope for a Local Planning Authority to enforce against any "unlawful" development is governed by the time limits within section 171B of the Town and Country Planning Act 1990 (as amended). This states that, in relation to *"the carrying out without planning permission of building, engineering, mining or other operations in, 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."*

Therefore, irrespective of the date that work was "begun" to install the roller shutters retention would be lawful if it had been "substantially completed" over four years ago.

For the lawfulness of the roller shutters to be confirmed it is only necessary either for it to have been "begun" before 29th of June 2017 or that it has been "substantially completed" for more than four years from today's date.

As expanded upon below there is substantial and compelling contemporaneous evidence, and it is considered that the information is sufficiently clear and unambiguous to support our case. Therefore, it is apparent, on the balance of probabilities, that the works have been substantially completed for a period in excess of 4 years prior to the planning enforcement letter issued on 29th June 2021.

Therefore, a positive certificate should be granted.

Conclusion

We consider the above and enclosed provides sufficient evidence to show that the existing operation roller shutters is lawful and a CLEUD can be granted without delay.

It is necessary to demonstrate either that the installation of roller shutters was “begun” before 29th of June 2017 or that it has been substantially completed for a period in excess of four years, we have in fact provided compelling evidence of both.

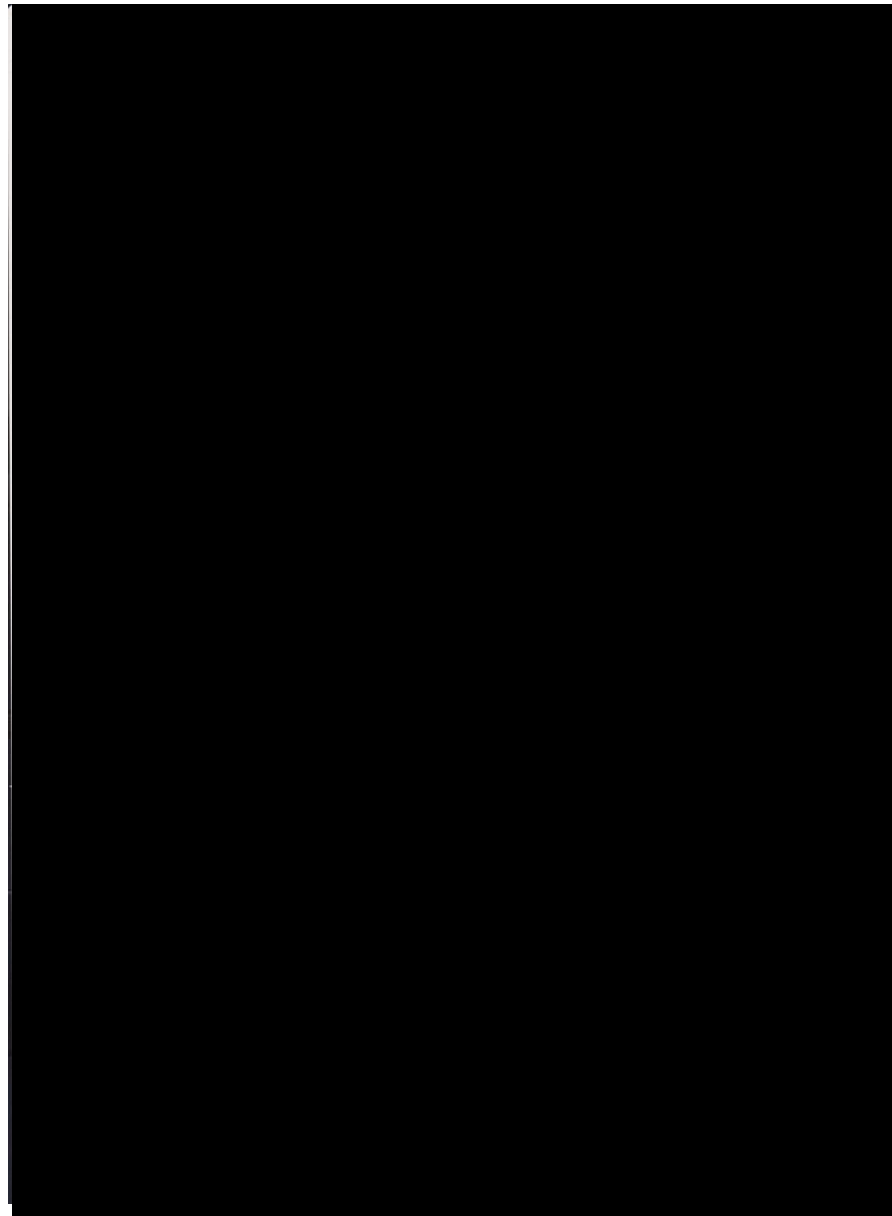
If you require any further information, please do not hesitate to contact us.

Yours faithfully

Mrs Daria Dorocinska

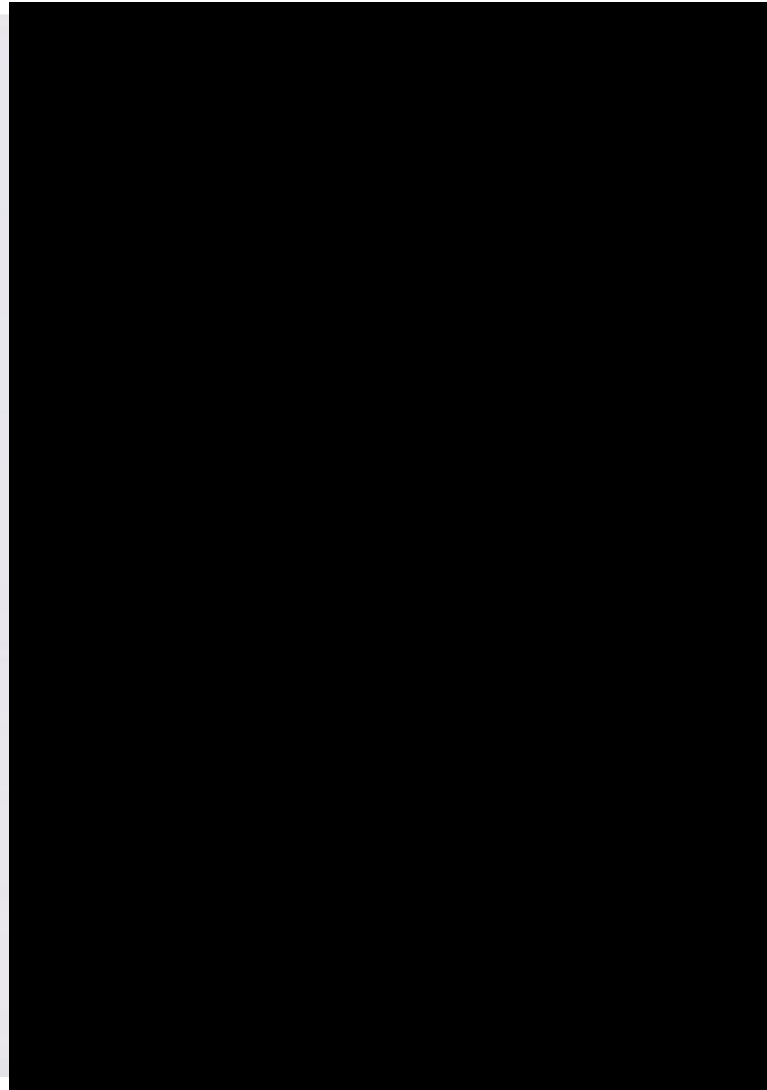
Appendix 1.

Receipt ‘Faktura VAT’ of purchase



Appendix 2.

Installation invoice



Appendix 3.

**Photographs of our daughter on a background of roller shutters within a period
the last four years**

