

AJ Planning and Development Ltd

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Head of Planning
Planning Department
Newport City Council
Civic Centre
Godfrey Road
Newport, NP20 4UR

My Reference: AJ/SR/LDC/001

Planning Portal Reference: PP-13799880

Wednesday, 26th February 2025

Dear Sir/Madam,

51 CARDIFF ROAD, NEWPORT, NP20 2EN

TOWN AND COUNTRY PLANNING ACT, SECTION 191:

CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT:

DENTAL LABORATORY, 2 NO. FLATS AND 1 NO. 2 BED HMO

Please find enclosed, on behalf of Mr Steven John Reynolds (the applicant) an application for a lawful development certificate (existing) relating to the above property.

This supporting statement is accompanied by the following documents/evidence: -

- 1) Planning Application Form.
- 2) Site Location Plan: Drawing No. 24-128/P/01.
- 3) Planning drawings (as existing), prepared by Creation Design:
 - Block Plan as Existing, Drawing No. 24-128/P/02
 - Floor Plans 1 and 2, Drawing No's 24-128/P03 and 04.
 - Section A-A, Drawing No. 24-128/P/05.
 - Front, Side and Rear Elevation, Drawing No's 24-128/P/06, 07 and 08.
 - Schedule of Accommodation, Drawing No. 24-128/P/09.
- 4) Supporting Information: As summarised with this application supporting statement, several declarations are provided from persons with knowledge of the historic and ongoing use of 51 Cardiff Road: the applicant; his ex-wife; the current, long term and former tenants of the residential units; and the local builder. The supporting information, as listed on the attached 'Supporting Documents' list confirm that the dental laboratory and residential units have been in situ for a continuous period well exceeding 10 years to date.
- 5) Application Fee: N/A, on the basis that the application represents a resubmission further to Application No. 24/0934, as refused on 9th January 2025.

I summarise and assess the supporting information below, including my own observations, having visited the application site on Tuesday, 28th January 2025.

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Statutory Framework

The application for a Lawful Development Certificate for an Existing Use is presented under the Town and Country Planning Act 1990: Section 191, as amended by Section 10 of the Planning and Compensation Act 1991; Town and Country Planning (Development Management Procedure) (Wales) Order 2012.

Under the Town and Country Planning Act, an application for a Certificate of Lawfulness of Existing Use (or development) can be made under Section 191 of the TCPA (as substituted by the Planning and Compensation Act), which informs that:

“Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”

Therefore, as established in planning case law, the burden of proof for lawful development certificates lies with the applicant. The courts have held that the relevant test of the evidence on such matters is ‘*the balance of probability*’.

In consideration of certificate applications, the applicant's own evidence does not need to be corroborated by independent evidence. If the local planning authority 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*'.

Further to the above, in determining certificate application, it is observed that the planning merits of the case are not relevant to the consideration of the purely legal issues involved in determining such certificate applications.

In support of this application, noting that earlier application 24/0934 was refused on the basis that: "*Insufficient information has been provided to establish on the balance of probabilities that the accommodation arrangement as submitted has been used continuously as such for the last 10 years*", the resubmission application is bolstered by further conclusive evidence of the historic and continuous mixed dental laboratory and residential uses at 51 Cardiff Road in Newport. The supporting information is presented below.

Planning History: Approval of dental laboratory (ground floor) within dwelling house

The recent planning history for the subject property at 51 Cardiff Road is summarised within Section 4 of the Officer Report for application 24/0935 (extract provided below). The planning history establishes that the host property was a single dwelling house at the time of the application 96/0149, with the dental laboratory in place at the time of the submission of 11/1266, as evidenced by the supporting application information and description '*retention*'.

4. RELEVANT SITE HISTORY			
App Number	Proposal	Decision	Decision Date
11/1266	RETENTION OF CHANGE OF USE OF GROUND FLOOR FROM A DENTAL LAB AND DWELLING TO DENTAL LAB / CLINIC FOR DENTAL ASSOCIATED WORK AND DWELLING AND THE EXTENSION OF A WORKSHOP TO THE REAR	Granted with conditions	19.03.2012
96/0149	USE OF ROOM AS A DENTAL LABORATORY	Granted with conditions	31.05.1996

I observe that planning permission 11/1266 provides unambiguous evidence as to the dental operations in place in 2012; the approved plan providing ground floor layout details consistent with attached application plan 24-128/P03. In terms of evidence, attached at **Appendix 1**, I provide a copy of the approved Supporting Statement, ground floor layout plan for the dental laboratory use. The practice has evidently been operating for a continuous period exceeding 10 years, as confirmed in the applicant's Statutory Declaration (Supporting Document 1). An email has also been provided by a long term member of staff confirm the dental practice and residential uses (Rehana Yasin, email 25.02.25 – attached with 'Supporting Documents').

Facts: Site Description / Mixed Dental Laboratory and Residential Uses.

The subject building, referred to as '51 Cardiff Road, Newport' is a semi-detached, traditional property, located close to Newport city centre, lying opposite the Royal Gwent Hospital. The application site is identified on the Location Plan Extract below.



As established, the subject property is a dental practice use on the ground floor, with residential units accommodated within the basement, first floor and attic floor level respectively. The residential unit layout and access arrangements are provided on floor plan drawing no's 24-128/P03 and 04.

In summary, I observe the following layout arrangements in reference to the application plans and my recent visit.

- **Ground Floor** - The dental practice is accessed via the porch to the west elevation of the property. As per drawing 24-128/P/03, the ground floor layout contains a waiting area upon entering the building, leading on to three rooms comprising the dental consultation room to the rear and 2 No. dental laboratories. This layout is consistent with the approved drawing at **Appendix 1**. The stairwell contained within the ground floor lobby, adjacent to the entrance door, leads to the first floor level, the stairs allowing access to the residential units (2 bed HMO and attic flat), as shown on application plan 24-128/P/04.
- **First and Attic Floor Level** – As shown on Plan Drawing 24-128/P/04, titled 'Floor Plan 2 of 2', the first floor contains a 2-bedroom HMO unit, the accommodation served by shared bathroom and kitchen. From the first floor level, the self-contained attic flat is accessed via the entrance door, which leads into the kitchen area. There is a stairwell from the kitchen which leads to the attic bedroom and accompanying ensuite.

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- **Basement Floor Plan** – To the rear of the property, as accessed from the rear amenity space, is a self-contained basement flat. As shown on Drawing No. 24-128/P/03, the accommodation comprises of 1 No. bedroom and bathroom at basement level with kitchen at ground floor above, as accessed via the internal stairwell.

I present recent photographs of 51 Cardiff Road, as taken on 28.01.25, showing both external and internal views of the property for information purposes. The photos provide a useful method of cross checking with the accompanying set of planning drawings, as submitted with and forming part of the application.

Photographs of the subject building

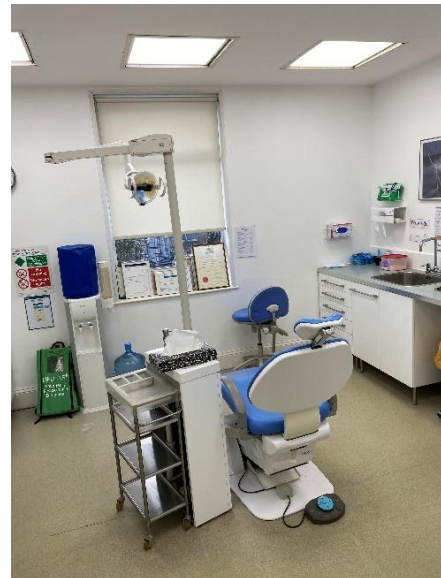
**Front
Elevation**



**Ground floor
dental lab.**



Entrance Lobby



Dental Practice

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First Floor (2 bed HMO)



HMO Communal Kitchen



HMO Communal Bathroom



HMO Bedroom 1



HMO Bedroom 2

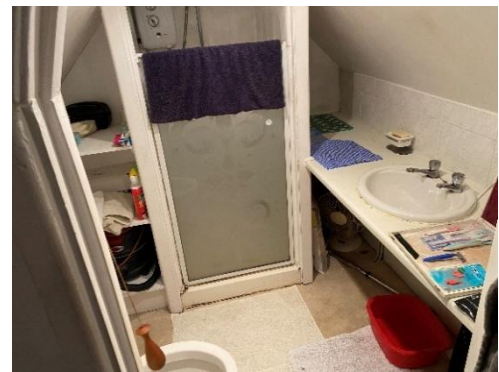
Floor Plan No. 24-128/P/03 – shows internal layout configuration of 2 bed HMO unit.

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Attic Flat



*Floor Plan No. 24-128/P/03
provides floor plan layout.*

Basement Flat



*Rear entrance (top left); bedroom (right); bathroom (bottom right) and kitchen (bottom left):
See Plan 24-128/P/03*



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Ownership History / Supporting Evidence

The Applicant

As verified in the Statutory Declarations of Mr Steven Reynolds (the applicant) and correspondence from his ex-wife Mrs Katherine Reynolds (Supporting Document 2), the property at 51 Cardiff Road in Newport was purchased by Mr Reynolds (the applicant) in 1993. A copy of the HM Land Registry title (Reference: WA684725, dated 3rd September 1993) is provided at **Appendix 2**.

Mr and Mrs Reynolds resided at the residential property for several years before they separated. During this time, as detailed under planning history detail above, the applicant obtained planning permission from the local authority for his dental laboratory (at ground floor level) under planning permissions 96/0149 and 11/1266, respectively.

As referenced in the applicant's Declaration, he has also obtained supporting information from the following persons, in order to provide evidence for the residential use comprising 2 No. flats and 1 No. 2 bed HMO. The attached information is summarised as follows.

Mr Banwell (Builder): Supporting Document 3

In 1998 the applicant converted the property to subdivide into flats alongside the established dental practice. The supporting correspondence from Mr A Banwell (the builder) confirms the nature of the residential conversion works completed at this time, confirming the subdivision to create residential units, as shown on the application plans.

Long term / past tenants (residential)

Mr Richard Gregory was the first tenant of 51 Cardiff Road and he moved into the "attic flat" in 1999. As per the supporting information provided as Document 4, Mr Gregory indeed still resides in the subject property, being a continuous tenant between 1999 to date. In terms of supporting detail, Mr Gregory has also been able to provide copy documents confirming his residence at 51 Cardiff Road, Newport in providing: a) a Jobseeker's Allowance Form (dated 23.01.08); b) a Tax Form (dated, 21.04.2012); c) a Post Office Life Cover Form, dated October 2022; and d) a letter from EE telecoms provider, dated December 2023. Given the private nature of the information the planning officer will be provided with this confidential information at request and during the currency of the application.

The following persons have provided supporting correspondence to confirm their residential occupancy at 51 Cardiff Road, covering the required LDC (existing use) period of more than 10 years. In summary, the following occupancy evidence is provided:-

- 1) Basement Flat: Mr Peter and Mrs Margaret Madden have identified that they lived in the basement flat during the period 2008-2012 (Document 6); Mr Chris Peel confirms that between 2012-2015 he resided in the basement flat. Presently, Mr Andrew Williams confirms that he has lived in the basement flat from 2015 to date.
- 2) 2 Bed HMO: Mr Richard Penfold has confirmed that he has resided in the property since 2002 to date (Document 5 attached). Mr Sean Kiely, a present occupier of the unit, confirms that he has lived in the property since 2020 to date (Document 7).

Conclusion

Therefore, planning history and the supporting Statements as identified above, confirms that the Local Planning Authority are in a position to issue a certificate of lawfulness for existing use: covering dental laboratory at ground floor (as benefitting from planning permission), 2 no. flats and 1 no. 2 bed HMO, should be issued without delay.

Following registration of my client's application, I will be in touch with the planning case officer to confirm site visit arrangements, should a site meeting be required.

We look forward to receiving the application registration letter at your earliest convenience. Please do not hesitate to contact me should you have any queries.

Yours Sincerely



Andrew Ayles
Director

Enc

C.c Client

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Appendix 1

Copy of Approved Planning Statement

(Planning Permission 11/1266, dated 7th March 2012 relates)

Land Use & Registration
07443777
The DAWES

Supporting Statement – 51 Cardiff Road – ref: 11/1266

The following questions have been asked to clarify how the ground floor of this property and rear workshop are used. The site layout plan submitted with the application and attached to this supporting statement can be used to clarify the answers provided.

1. Please provide a brief overview of the business and the activities undertaken at the site.

WE PROVIDE AN ESSENTIAL SERVICE, PATIENTS WHO HAVE LOST THEIR DENTURES OR CANNOT REGISTER WITH A NORMAL DENTAL SURGERY CAN BE SEEN BY MYSELF TO PROVIDE NEW DENTURES. I TAKE IMPRESSIONS IN THE NEW ROOM! AND THEY ARE MANUFACTURED IN THE LABORATORY.

2. How many people are employed (including yourself) at the property for the business?

Total: TWO IN MAIN BUILDING + ONE MY FATHER IN REAR GARDEN WORKSHOP

Part-time:

Full-time: 3

3. What is the maximum number of employees at the site at any one time?

THREE

4. What use occurs in each of the rooms (as described on the attached site layout plan)? AS A 'CLINICAL DENTAL TECHNICIAN' I AM ONLY ALLOWED TO TAKE IMPRESSIONS OF A PATIENT'S MOUTH.

'New Room' TO PROVIDE DENTURES + REPAIR DENTURES

'Existing lab' (x2 rooms) MANUFACTURE DENTURES

'Workshop' MANUFACTURE DENTURES

N.B. I WILL NEVER BE ABLE TO CARRY OUT SURGICAL PROCEDURES E.G. EXTRACTING TEETH OR FILLINGS AND CROWNS, (JUST PROVIDE DENTURES)

GRANTED

5. Are customers restricted to using only certain rooms (as defined above)?

YES (NEW ROOM) FOR IMPRESSIONS

6. How many customers on average (can provide a range) visit the property each day and week?

Day 2 → 5 Week 10 → 20

7. Do you operate an appointment based system? If yes, then please provide details of this in relation to appointment spacings and whether more than one customer can be seen at a time.

YES, I HAVE AN APPOINTMENT SYSTEM

HOURLY APPOINTMENTS FROM ABOUT 11.00 AM → 4.00 PM (ONLY ONE PATIENT AT A TIME MAY BE SEEN)

The answers to the questions above have been completed by (insert name):

M. S. J. REYNOLDS

The above mentioned person has what interest in the property:

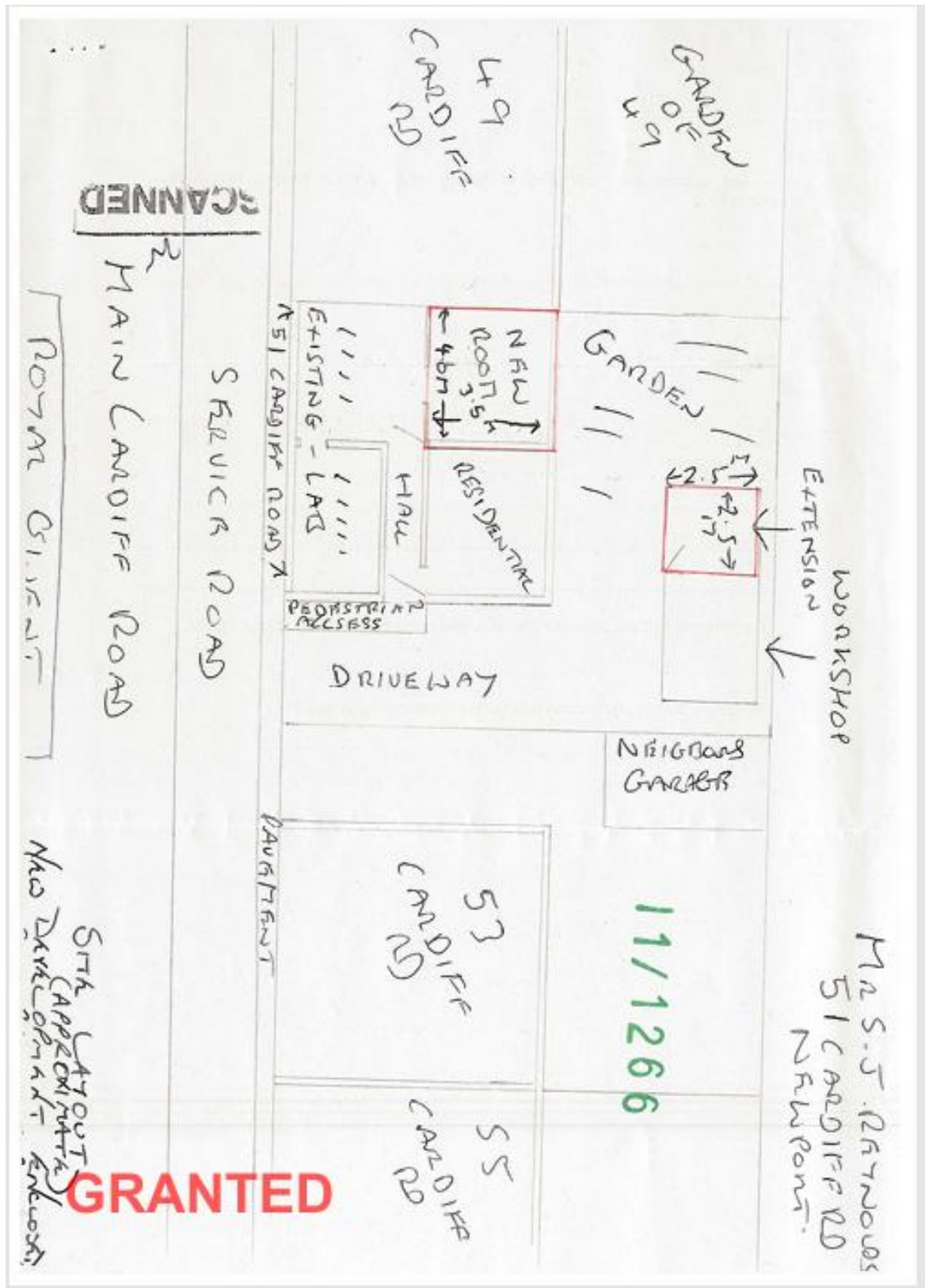
OWNER

Signed: *M. S. J. Reynolds* Dated: 7/7/2012

N.B. WE ALSO PROVIDE DENTURES FOR A LOCAL DENTAL SURGERY ON THE CORNER OF CARDIFF ROAD.

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Appendix 2:

HM Land Registry Title

 HM Land Registry		TITLE NUMBER : WA684725
Edition date : 3 September 1993		
Entry No.	A. PROPERTY REGISTER containing the description of the registered land and the estate comprised in the Title	
	COUNTY GWENT	DISTRICT NEWPORT
1.	(3 September 1993) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 51 Cardiff Road.	
Entry No.	B. PROPRIETORSHIP REGISTER stating nature of the Title, name, address and description of the proprietor of the land and any entries affecting the right of disposing thereof TITLE ABSOLUTE	
1.	(3 September 1993) Proprietor: STEVEN JOHN REYNOLDS of 51 Cardiff Road, Newport, Gwent, NP9 2EN.	
Entry No.	C. CHARGES REGISTER containing charges, incumbrances etc, adversely affecting the land and registered dealings thereon	
1.	(3 September 1993) The land is subject to the following rights reserved by a Conveyance of the land in this title dated 19 May 1958 made between (1) The Honourable Charles Christian Simon Rodney and others (Vendors) and (2) Joseph Lenane and Annabel Lenane (Purchasers):- "THERE shall be EXCEPTED AND RESERVED out of this Conveyance to the Vendors in fee simple and so that the powers rights and privileges reserved may be exercisable by the Vendors and their successors in title and their assigns and their lessees or tenants present or future:- (a) ONE-HALF of the walls of the Property where separating the same from adjoining land of the Vendors which shall be deemed to be party walls and shall be maintained and repaired accordingly. (b) ANY right of light or other easement or any right in the nature of an easement over or affecting other ground or buildings vested in the Vendors and in particular any right to lateral support that would in any way diminish or interfere with the free and unrestricted user of the adjoining or neighbouring land vested in the Vendors for building or any other purposes. (c) THE right at any time or times to build on any adjoining or neighbouring land and to rebuild or alter any of the adjoining or neighbouring building according to such plans whether as to height extent or otherwise and in such manner as shall be approved by the agent for the time being of the Vendors or their successors in title notwithstanding any interference occasioned to the Property or to the buildings at any time standing upon it or to the access of light or air to the same and with full power and authority to enter upon the Property for the purpose of repairing and maintaining and altering any existing or future building	