

SUPPORTING STATEMENT

for

**A CERTIFICATE OF EXISTING LAWFUL
DEVELOPMENT FOR:**

An Independent Dwellinghouse

at

**Park Place Stables, Remenham Hill,
Henley-on-Thames,
RG9 3HN**

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Client: Durio Ltd

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<u>Contents:</u>	Page
1.0 INTRODUCTION	1
2.0 APPEAL SITE AND SURROUNDINGS.....	2
3.0 PLANNING HISTORY	6
4.0 POLICY	8
5.0 THE APPEAL SCHEME.....	10
6.0 CASE FOR THE APPELLANT.....	12

Exhibits

1. Site Location Plan - WOK-NM-211-1.2.01
2. Decision notice and approved plans for the building, as approved under F/2014/1637
3. TV Licence evidence 2017-2024
4. Letters from tenants

Appendices

1. Statutory Declaration of India Hall
2. Statutory Declaration of Aislinn Price

1.0 INTRODUCTION

- 1.1 This supporting statement is prepared by Southern Planning Practice Ltd in support of an application for a Lawful Development Certificate under section 191 of the Town and Country Planning Act 1990 (as amended) on behalf of Durio Ltd, the landowner.
- 1.2 The application seeks to certify the lawfulness of the change of use of a building for use as an independent dwellinghouse.
- 1.3 The dwellinghouse is contained within an American Barn, which was constructed in 2014. The extent of the dwellinghouse is edged red on the site location plan, drawing reference WOK-NM-211-1.2.01 (see **Exhibit I**). The following additional plans have been provided with the application:
- Block Plan - WOK-NM-211-1.2.02
 - Floor Plan and Elevations - WOK-NM-211-1.2.03
- 1.4 Planning permission was granted for the American Barn on 21st November 2014 under application F/2014/1637. The building was fully completed by 2015. The area allocated for a staff day area changed over time, particularly the room to be used as a 'store' as this was converted into a bedroom.
- 1.5 The area was subsequently occupied as a dwelling for groom's accommodation. It has been continually occupied as an independent dwellinghouse since 2016. Evidence is provided to demonstrate this continual occupancy since 2016 until present.
- 1.6 The change of use of this part of the barn to use as a single dwellinghouse occurred more than four years from the date of this application and the plan submitted with this application shows the dwellinghouse in question.
- 1.7 This statement sets out the case and the evidence to support the certificate.

2.0 **SITE AND SURROUNDINGS**

- 2.1 The application site relates to part of a building located in the countryside and Green Belt within the Borough of Wokingham. It forms part of the Park Place estate.
- 2.2 The building is an existing American Barn used for equestrian and residential purposes. The dwellinghouse in question is located within the part of the eastern side of the building, which originally had planning permission as a staff day area.
- 2.3 The dwellinghouse is accessed from the pedestrian walkway which runs parallel with the existing horsewalker and stable block via an external door on the east elevation of the barn (see Fig. 1 below). There are a further three external windows which serve the dwellinghouse.
- 2.4 The dwellinghouse consists of habitable accommodation including an open plan kitchen and living space, double bedroom and washroom which leads into a WC/Shower.



Fig. 1 - Front door and main entrance point into accommodation



Fig. 2 - Kitchen within accommodation



Fig. 3 - Double bedroom within accommodation

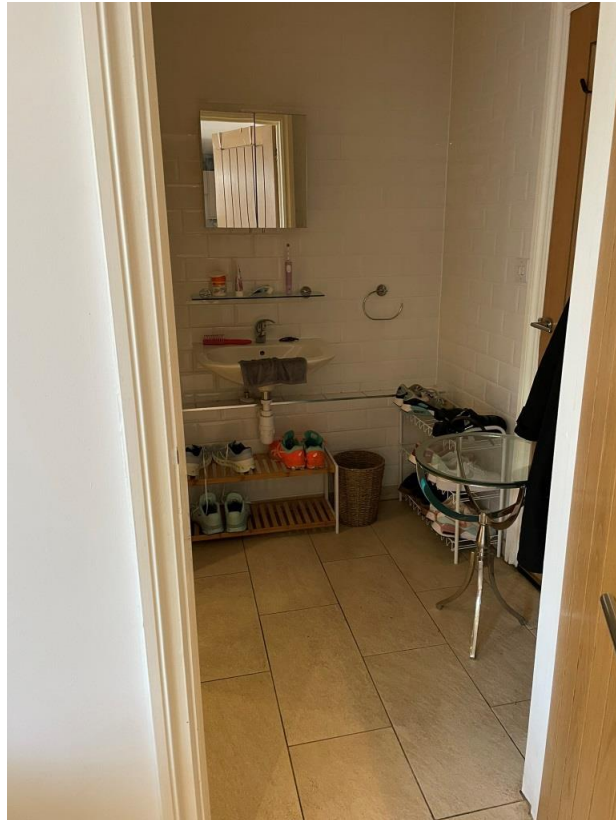


Fig. 4 - Washroom within accommodation



Fig. 5 - Shower room and WC within grooms accommodation



Fig. 6 - Living room



Fig. 7 - Living room

3.0 **HISTORY AND EVIDENCE**

3.1 The planning history for the barn is as follows:

- F/2014/1637 – Proposed erection of a new barn to include equestrian use;
Approved 21st November 2014

3.2 Copies of the decision notice and approved floor plan and elevations for the building, are shown at **Exhibit 2**.

3.3 The barn was completed and the 'store' (as shown on the approved plans) was later converted to form a bedroom, as shown in the photographs and on the existing floor plans and elevations.

3.4 The property has a separate TV Licence (Licence number 3770469827) and this has been paid on a regular basis from 2017 until present (see evidence of licences and payment at **Exhibit 3**).

3.5 In terms of occupancy, the tenants occupied the accommodation and letters verifying this have been signed from two of the previous tenants and from the current tenant, as shown at **Exhibit 4**.

3.6 The list of all tenants since 2016 are as follows:

Tenant Name	Arrival Date	Departure Date
Alejandro Gonzalez	01-Nov-16	28-Feb-17
Michaela Gonzalez	01-Mar-17	30-Apr-19
India Hall	14-May-19	02-Oct-23
Hannah Coniam	10-Oct-23	31-Jan-24
Shannon Stephenson	11-Mar-24	Present Occupier

- 3.7 The application also includes two Statutory Declarations. A Statutory Declaration is included from former employee and tenant India Hall at **Appendix 1** to verify that she occupied the dwellinghouse for the dates shown in the table above.
- 3.8 A Statutory Declaration from the polo manager Aislinn Price is included at **Appendix 2** to verify that she has witnessed the groom's accommodation being constructed and continuously occupied as an independent dwellinghouse since works were completed.

4.0 **PLANNING LAW**

- 4.1 This application is made under Section 191 of the Town & Country Planning Act 1990 (as amended) “the Act”, which enables anyone to apply to the local planning authority for a decision whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes. Section 191 (1) and (2) of “the Act” states:

“191. 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);*
- (b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

- 4.2 Following the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 coming into effect on the 25th April 2024. As a result, the time period in which local planning authorities can take enforcement action against unauthorised development in England is, in all cases, 10 years. The time limits when enforcement action can be taken are specified in Section 171B of the Act:

“(1) 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—

(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of—

(a) in the case of a breach of planning control in England, ten years beginning with the date of the breach”

- 4.3 In the case of unauthorised operational development or the change of use of any building to use as a single dwelling, this was formally four years. As there is a transitional period and as the development was ‘substantially completed’ before 25th April 2024, the new time period is not considered to apply in this case. Therefore, in terms of the time limit for enforcement action for this development, the previous wording of section 171B is relevant:

*“Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, 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.”*

- 4.4 Section 191(4) of the Act states:

“(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.”

- 4.5 In the case of *F W Grabbitts v SSE and Newham LBC* [1985] it was held that the applicant’s own evidence does not have to be corroborated by ‘independent’ evidence in order to be accepted. If the LPA has 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.

- 4.6 A certificate application is determined on the balance of probabilities.

5.0 ASSESSMENT

- 5.1 The dwellinghouse used for groom's accommodation within the American Barn is a separate planning unit. It has all the 'day-to-day' facilities of a dwelling and has been occupied independently since 2016. Its character and use are that of an independent dwellinghouse.
- 5.2 From the evidence provided, the occupation of the groom's accommodation as an independent dwellinghouse for in excess of four years establishes that the residential use is lawful under Sections 171B (2) and 191A of the Act.
- 5.3 Although the accommodation was empty for very short periods between tenancies, the use was not abandoned. In *Panton and Farmer v Secretary of State for the Environment*, a distinction was drawn between a use being dormant and a use being abandoned or abrogated. A dormant use, or one which is physically inactive, may still exist for the purposes of S191, whereas abandonment or other forms of abrogation will result in the use being lost by operation of law.
- 5.4 It was held in *Hughes v Secretary of State for the Environment, Transport and the Regions* [https://uk.westlaw.com/Document/I82C83D700B8F11E8A19DB36EAAA4AB0E/View/FullText.html?ppcid=f805a37ff77e430f9495d5d6ef51cfb9&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Category\)&nortId=I9BE847000B8F11E8A0B2E5728172ECF8&comp=books&navId=E3AA5C94FB988B5A57C777C444F65B6C](https://uk.westlaw.com/Document/I82C83D700B8F11E8A19DB36EAAA4AB0E/View/FullText.html?ppcid=f805a37ff77e430f9495d5d6ef51cfb9&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Category)&nortId=I9BE847000B8F11E8A0B2E5728172ECF8&comp=books&navId=E3AA5C94FB988B5A57C777C444F65B6C) that the four criteria set out by Nolan J. (as he then was) in *Trustees of the Castel-y-Manach Estates v Secretary of State for Wales & Taff Ely Borough Council* are relevant to the determination of whether the use of a building has been abandoned:
- the physical condition of the building;
 - the length of time for which the building had not been used for the relevant use;
 - whether it had been used for any other purposes (such as intervening uses); and
 - the owner's intentions
- 5.5 The accommodation is in a sound structural condition and still in use. Based on the various cases, the previous periods of non-use, between tenants are short and not

considered to be significant. It is clear from the evidence that there has been no intervening use.

- 5.6 For these reasons, it is considered that the use as a dwellinghouse is lawful and a certificate should therefore be issued.

6.0 CONCLUSION

- 6.1 Part of the American Barn has had a change of use to form the groom's accommodation, an independent dwellinghouse. It has been occupied continuously since 2016 until the present time.
- 6.2 As the development was 'substantially completed' before 25th April 2024, the change of use is therefore thus immune from enforcement action under the four-year rule.
- 6.3 The change of use of this part of the barn to use as a single dwellinghouse occurred more than four years from the date of this application and the plan submitted with this application shows the dwellinghouse in question. A Certificate of Lawfulness of existing development should therefore be granted.