

ET Planning

Certificate of Lawfulness Statement

Client:

Mr C Dutton

Unit 3,

Tintagel Farm, RG40 3JD

Certificate of lawfulness to confirm:

- 1) The use of Unit 3 as a lawful residential unit, continuously for a period of at least 10 years*
- 2) The use of garden land in connection with the residential use of Unit 3, continuously for a period of at least 10 years.*

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Contents

CONTENTS	0
01 INTRODUCTION	1
02 TOWN AND COUNTRY PLANNING ACT 1990	2
03 ASSESSMENT OF SUBMITTED EVIDENCE	3
04 CONCLUSION	14

List of Appendices

Appendix 1a - Statutory Declaration of C Dutton

Appendix 1b - Statutory Declaration of Marco Henriques

Appendix 2a - 2019/20 Council Tax

Appendix 2b - 2020/21 Council Tax

Appendix 2c - 2021/22 Council Tax

Appendix 2d - 2022/23 Council Tax

Appendix 2e - 2023/24 Council Tax

Appendix 2f - 2024/25 Council Tax

Appendix 2g - 2025/26 Council Tax

Appendix 2h - Council Tax Summary

Appendix 2i - WBC Council Tax Letter

Appendix 3a - Tenancy Agreement

Appendix 4a - Witness Statement - Chris Dutton

Appendix 4b - Marco's Witness Statement

Appendix 4c - Paul's Witness Statement

01 Introduction

1.1 This statement is produced to support a Certificate of Lawful Existing Development at Unit 3, Tintagel Farm, Sandhurst Road, Wokingham, RG40 3JD. The certificate seeks to confirm:

1) The use of Unit 3 as a lawful residential unit, continuously for a period of at least 10 years

2) The use of garden land in connection with the residential use of Unit 3, continuously for a period of at least 10 years.

1.2 This planning statement will introduce the meaning of 'development' in accordance with the Town and Country Planning Act 1990, summarises the relevant legal tests and set out the application in light of these. The conclusion reached is that the development is lawful and so no enforcement action can be taken.

1.3 In addition to this statement, the application is accompanied by the appropriate certificate application forms, appendices and a 1:1250 Site Location Plan.

1.4 The Old Stables and Unit 3 refer to the same development.

1.5 The relevant application fee will be submitted by the applicant separately.

02 Town and Country Planning Act 1990

- 2.1 Section 55(1) of the Town and Country Planning Act 1990 defines development as 'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'.
- 2.2 Section 171A 1(B) of the Town and Country Planning Act relates to the time frames in which enforcement action can be taken against breaches of planning control. This includes "*carrying out development without the required planning permission.*" Section 171B (3) relates to breaches of planning control consisting of "*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*".
- 2.3 Section 171B (3) therefore controls the relevant timeframe for the immunity from enforcement action, which means that the change of use of land becomes immune from enforcement action after ten years.
- 2.4 In line with this, the relevant time period to evidence the use of the land for ancillary residential purposes is for the past 10 years from the date of this application submission. In this instance, the use of the land for ancillary residential purposes began in January 2013 and continues to be in use for this purpose in the present day, a period in excess of 10 years.

- 2.5 Circular 10/97 (Enforcing Planning Control) was archived in March 2014 and replaced by the National Planning Policy Guidance (NPPG). The NPPG reiterates the previous guidance of the Circular and in paragraph 006 states that *“the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land”*.
- 2.6 It is established case law (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.
- 2.7 The following section outlines the evidence submitted within the Appendices, and explains how this evidences immunity from enforcement action.

03 Assessment of Submitted Evidence

Appendix 1a: Statutory Declaration of Mr Christopher Dutton

- 3.1 Appendix 1a contains the Statutory Declaration of Mr Christopher Dutton.
- 3.2 For clarification, a Statutory Declaration is a sworn, written statement of fact voluntarily made and declared to be true in the presence of an authorised witness. It carries **significant weight** in the determination of

applications, as if the declaration is found to be untrue, the defendant making it may be punished for perjury. Consequently, the information contained within the Declaration can be relied on as **true, clear, and unambiguous.**

- 3.3 The declaration details how Mr Dutton has lived at the wider site of Tintagel Farm since 1975 and how he is the owner of Unit 3.
- 3.4 He notes how the stable buildings were subject to two separate previous enforcement notices served by Wokingham Borough Council. The first notice was subsequently withdrawn by the Council (see relevant costs application APP/X0360/C/13/2197416) whilst the second notice was quashed at appeal (appeal reference APP/X0360/C/14/2215438 allowed on 20/11/2014).
- 3.5 Mr Dutton gave evidence as part of the appeal inquiry for the latter, both decisions confirmed that the erection of the stable buildings are and were lawful, and at the time the lawful uses (multiple planning units) of the units comprised of a single dwellinghouse (Unit 3), business storage and an office use.
- 3.6 Mr Dutton affirms in his declaration that Unit 3 has been used as a dwelling since April 2012. Paul and Michelle Roberts initially lived at the property

until July 2014. Following this, Mr Marco Henriques moved into the property in August 2014.

3.7 The declaration goes on to detail how the garden area was expanded in February 2015 and has been used to the present day for such purpose.

3.8 This declaration covers the period from 1975 to the present day.

Appendix 1b: Statutory Declaration of Mr Marco Henriques

3.9 Appendix 1b contains the Statutory Declaration of Mr Marco Henriques.

3.10 For clarification, a Statutory Declaration is a sworn, written statement of fact voluntarily made and declared to be true in the presence of an authorised witness. It carries **significant weight** in the determination of applications, as if the declaration is found to be untrue, the defendant making it may be punished for perjury. Consequently, the information contained within the Declaration can be relied on as **true, clear, and unambiguous.**

3.11 Mr Henriques affirms in his declaration that he has lived at Unit 3 since 01/08/2014.

3.12 His declaration outlines how following his occupation, he realised that the garden space was inadequate and he asked Mr Dutton if this could be expanded.

3.13 Work to expand the garden then began in February 2015 and Exhibit A of the declaration shows the work being done to install a bamboo screen as part of this on 12th February 2015.

3.14 Mr Henriques was then able to use the expanded garden area from Easter 2015. Exhibit C of the declaration then goes on to detail how he was able to use the space for activities such as a barbeque with family on the 11th September 2019.

3.15 This document covers the period between 1st August 2014 and the present day.

Appendix 2a: 2019/20 Council Tax Bill

- 3.16 Appendix 2a contains a Council Tax receipt for Mr Marco Henriques.
- 3.17 It shows that during this period, the annual charge for the Council tax was £1,188.27.
- 3.18 This covers the period between 1st April 2019 and 31st March 2020.

Appendix 2b: 2020/21 Council Tax Bill

- 3.19 Appendix 2b contains a Council Tax receipt for Mr Marco Henriques.
- 3.20 It shows that during this period, the annual charge for the Council tax was £1,235.99 and that a 25% reduction for single occupancy was applied during this period.
- 3.21 This covers the period between 1st April 2020 and 31st March 2021.

Appendix 2c: 2021/22 Council Tax Bill

- 3.22 Appendix 2c contains a Council Tax receipt for Mr Marco Henriques.
- 3.23 It shows that during this period, the annual charge for the Council tax was £1,298.87 and that a 25% reduction for single occupancy was applied during this period.

3.24 This covers the period between 1st April 2021 and 31st March 2022.

Appendix 2d: 2022/23 Council Tax Bill

3.25 Appendix 2d contains a Council Tax receipt for Mr Marco Henriques.

3.26 It shows that during this period, the annual charge for Council Tax was £1,342.09 and that a 25% reduction for single occupancy was applied during this period.

3.27 This covers the period between 1st April 2022 and 31st March 2023.

Appendix 2e: 2023/24 Council Tax Bill

3.28 Appendix 2e contains a Council Tax receipt for Mr Marco Henriques.

3.29 It shows that during this period, the annual charge for Council Tax was £1,410.92 and that a 25% reduction for single occupancy was applied during this period.

3.30 This covers the period between 1st April 2023 and 31st March 2024.

Appendix 2f: 2024/25 Council Tax Bill

- 3.31 Appendix 2f contains a Council Tax receipt for Mr Marco Henriques.
- 3.32 It shows that during this period, the annual charge for Council Tax was £1,342.09 and that a 25% reduction for single occupancy was applied during this period.
- 3.33 This covers the period between 1st April 2024 and 31st March 2025.

Appendix 2g: 2025/26 Council Tax Bill

- 3.34 Appendix 2g contains a Council Tax receipt for Mr Marco Henriques.
- 3.35 It shows that during this period, the annual charge for Council Tax was £1,342.09 and that a 25% reduction for single occupancy was applied during this period.
- 3.36 This covers the period between 1st April 2025 and 31st March 2026.

Appendix 2h: Council Tax Summary

- 3.37 Appendix 2h contains a Council Tax summary for Unit3/The Old Stables
- 3.38 This shows the dates the bills were generated, the coverage year and the amount payable.

3.39 This covers the period between 13th March 2019 and the present day.

Appendix 2i: Council Tax Letter from Wokingham Borough Council

3.40 Appendix 2i contains a letter from Wokingham Borough Council to Mr Marco Henriques.

3.41 The letter confirms that Mr Henriques has been living and paying Council Tax at the property 'The Old Stables' since 1st August 2014.

3.42 This covers the period between 1st August 2014 and the present day.

Appendix 3a: Tenancy Agreement

3.43 Appendix 3a contains a tenancy agreement between Mr Christopher Dutton (the applicant) and Mr Marco Henriques (the occupier).

3.44 The tenancy agreement details that the term of the tenancy agreement begun on 1st January 2015 and runs on a rolling year basis.

3.45 The tenancy agreement states that the rent payment is £350 per month and is due on the 1st date of each month.

3.46 The tenancy agreement was signed by both Mr Dutton and Mr Henriques on the 27th December 2014.

3.47 The tenancy agreement covers the period between 27th December 2014 and the present day.

Appendix 4a: Witness Statement of Christopher Dutton in relation to appeal ref. APP/X0360/C/14/2215438

3.48 Appendix 4a contains a witness statement submitted by Mr Dutton in relation to appeal reference. APP/X0360/C/14/2215438.

3.49 Point 16 of the Witness Statement details how the residential use of the application site begun.

3.50 The site was initially occupied for residential purposes by Paul and Michelle Roberts from April 2012 to the end of July 2014 until they swapped with Marco Henriques since 1st August 2014.

3.51 The witness statement is dated 15th October 2014.

3.52 This document covers the period from 1975 and 15th October 2014.

Appendix 4b: Witness Statement of Mr Marco Henriques in relation to appeal ref. APP/X0360/C/14/2215438

- 3.53 Appendix 4b contains the witness statement of Mr Marco Henriques in relation to the above appeal.
- 3.54 The statement details how Mr Henriques has lived at the Old Stables since 1st August 2014.
- 3.55 The statement details how he swapped living places from Tingdene (larger mobile home) to the Old Stables (smaller property) with Paul and Michelle Roberts following the breakdown of his relationship with his wife.
- 3.56 The statement goes on to detail how he pays £350 a month rent to Mr Dutton.

Appendix 4c: Witness Statement of Paul Roberts in relation to appeal ref. APP/X0360/C/14/2215438

- 3.57 Appendix 4b contains the witness statement of Mr Paul Roberts in relation to the above appeal.
- 3.58 The document details how when the opportunity for living in the stables came about.
- 3.59 The statement goes on to detail how they then swapped with Mr Marco Henriques to go and live in the Tingdene Mobile Home elsewhere on the site, allowing Marco to live at the Old Stables as he was looking for somewhere smaller to live.
- 3.60 This statement covers the period of time between 1st August 2014 and 15th October 2014.

04 Conclusion

4.1 This statement is produced to support a Certificate of Lawful Existing Development at Unit 3, Tintagel Farm, Sandhurst Road, Wokingham, RG40 3JD.

4.2 The relevant test for Lawful Use applications is the 'balance of probability.' Based on the submission of corroboratory evidence, including a Statutory Declaration which can be relied upon as true, clear and unambiguous, it is concluded that the following should be found to be lawful:

1) The use of Unit 3 as a lawful residential unit, continuously for a period of at least 10 years

2) The use of garden land in connection with the residential use of Unit 3, continuously for a period of at least 10 years.

4.3 On the basis of this application, we consider that both are immune from enforcement action.

4.4 If the Council are in possession of any information that leads them to a different view to that set out above, we ask that we have the opportunity to examine this information to ensure a fair and balanced assessment.

4.5 However, it is considered that the submitted evidence meets the tests of being clear and unambiguous. On the balance of probability, based on the

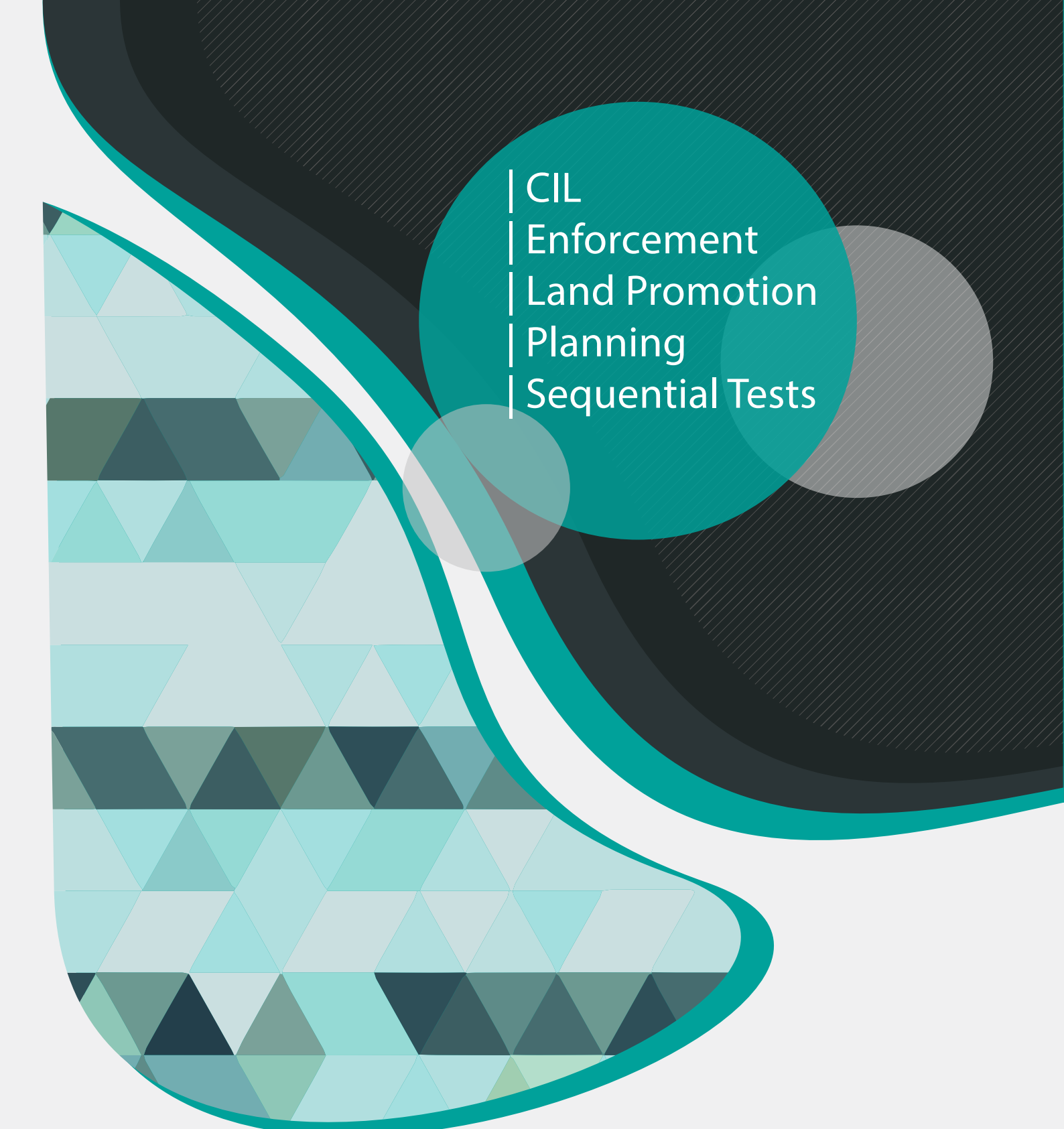
submitted evidence, it is therefore requested that the application for a certificate of existing lawful use be approved.

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