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Application for Certificate of Lawfulness of Existing Use (Section 191 & 192 of the Town and Country Planning Act 1990)

**Use of a building as an independent residential dwelling for more than four
years**

at

THE GARDEN HUT, COAST ROAD, BURTON BRADSTOCK. DT6 4RN.

For

Mr J Jay

Background

Planning permission has been applied for to rebuild a dwelling known as the Garden Hut. Reference is made to Policy HOUS6 of the West Dorset, Weymouth and Portland local plan which supports the replacement of dwellings. The planning authority has queried the planning status of the building as no planning permission has ever been approved for the structure and its use. In the most recent planning application evidence was submitted to demonstrate that the building had been in existence for many years and had been used as an independent self-contained dwelling well in excess of twenty years.

The planning authority has now asked that an application for lawfulness of the existing use is submitted to give formal consideration to the evidence demonstrating that the residential use has been in existence continually for a period in excess of four years with no alternative use of the building occurring in that period or subsequently. This process is deemed necessary to confirm the planning status of the existing building.

The building known as The Garden Hut was built in the early 1920's as self-contained accommodation being one of up to twenty such homes constructed by the Pitt-Rivers Estate. The current owner's family owned a number of these dwellings which included The Studio, Burton Mere and The Garden Hut. A two roomed building referred to as The Museum within the same curtilage has been unoccupied since 1939.

The Studio is now the main residence on the land but the Garden Hut has been continually used as self-contained residential accommodation since its construction in the 1920's. This use was mainly by family members who used the building for holidays and when looking after elderly relatives in The Studio and Burton Mere.

The building comprises a main bedroom/living room, a kitchen and a bathroom with a sink and an earth closet. Mains electricity is connected as is a mains water supply – please see photographs submitted as evidence of the self-contained nature of the accommodation

In 1993, the current owners elderly mother and Aunt died and the owner moved into The Studio from his residence in The Garden Hut. In 1995 the owner allowed a friend, Mr Clough, to live in the Garden Hut using it as self-contained residential accommodation.

The occupation of the accommodation by Mr Jeremy Jay amounted to the use of the building as an independent dwelling but he was related to the owner of the main property. Therefore it could be said that the building wasn't being used independently from the main dwelling. It is from this point in 1993 when Mr Clough's use of the building commenced that the building was truly being used as an independent dwelling as the family link to The Studio was broken. Mr Clough had moved from a residence in Puncknowle and continued to use The Garden Hut as his principle dwelling for the next twenty years until 2015. At this point the tenant had to care for his elderly parents in the Bridport area residing at both his parent's house and at The Garden Hut. Mr Clough has now given up his residence at the Garden Hut but his furniture remains in the building. The building is still capable of providing self-contained accommodation and has not been abandoned or used for any other purpose.

Given this background information, it is contended that the residential use of The Garden Hut as an independent dwelling has been in existence for in excess of twenty-five years and is comfortably in excess of the four-year period needed to demonstrate an established use for a dwelling. It has not been abandoned, is in a reasonable physical state and the use of the building has not changed from the residential use.

Evidence of separate occupation.

Statement by Mr Mark Clough – Tennant for over twenty years

Statement by Mr Jeremy Jay – Land owner and previous occupier of the accommodation.

Statement by Mrs Suzanne Gordon

Statement by Ms Stella Hall

Statement by Mr Richard Hawkins

Photographs of the residential accommodation