

Hedley Clark
Town Planning
Consultants

Regeneration & Place
East Hants District Council
Penns Place
Petersfield
GU31 4EX

25th June 2021

Dear Sir/Madam,

Certificate of Lawfulness under Section 191 for use of existing building as self-contained dwelling
The Cabin at Foxhanger House, Curtis Lane, Headley

Hedley Clark has been instructed to act on the behalf of the applicant, Mr. White, in respect of the submission of an application under Section 191 for a Certificate of Lawfulness for an existing residential use as a self-contained and independent dwelling at a building known as The Cabin at Foxhanger House, Curtis Lane, Headley.

The application comprises the following information:

- Completed application forms;
- Statutory Declaration from Mr. White (occupier of The Cabin);
- Location Plan
- Block Plan
- Floor Plans
- Elevations

It is well established in planning law and practice that the applicant has the onus of proving the lawfulness of the existing use of land in respect of which he applies for a certificate under Section 191 of the Town and Country Planning Act.

The NPPG advises that if the Local Planning Authority has no evidence itself, nor any 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 application seeks agreement of an application for a lawful development certificate for the use of an identified building as a self-contained dwelling (C3 Use). This application is based on the facts that the building has been occupied

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independently for a period of more than 4 years as a dwelling, with interruption or abandonment.

The evidence submitted includes a sworn affidavit from Mr. White which carefully details the timing of works to construct the building and the immediate independent residential use and occupation of the it since March 2017. Whilst there is no requirement to provide independent evidence, the sworn statement includes a copies of receipts and delivery tickets as further evidence to corroborate the statement of the applicant.

In addition to the above, we respectfully include an aerial image from Google Earth, dated March 2017, which clearly shows the dwelling the subject of this submission in situ – please see image below.



Google Earth Image above dated March 2017

The sworn statement clarifies that the applicant has had no functional or other requirement to use the facilities at Foxhanger House, with The Cabin providing day to day facilities sufficient to enable self-contained and independent occupation. Furthermore, whilst the applicant's late grandmother owned and lived in Foxhanger House, it is made clear that neither he nor his wife were responsible for providing care, with independent carers employed to fulfil those needs.

We would respectfully remind the Council that whilst Council Tax has not been paid for the dwelling known as The Cabin, this should not be used as positive evidence to argue the dwelling has not existed for a period of more than 4 years. To attempt to use lack of Council Tax records as positive evidence in this regard is an incorrect application of law.

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The evidence provided as part of this application is clear, precise and unambiguous. It clearly demonstrates that the building and land the subject of the CLUED (as edged red on the site plan) has been used on a continuous basis for period of more than 4years, up to and including the date of this application, as a self-contained and independent dwelling.

Should you wish to discuss any aspect of the application further please do not hesitate to contact me.

Yours faithfully

Karen Clark
BSc(Hons) Dip TP MRTPI
Director of Planning