

The Head of Planning Services  
New Forest District Council  
Apple Tree Court  
Lyndhurst  
Hampshire SO43 7PA

11<sup>th</sup> August 2021

**Our ref: KHP/6245**

Dear Sir

**Re: Section 191 Application to confirm as lawful the use of the stables as a self-contained residential dwelling**

**The Stables, The Oaks, Ringwood Road, Fordingbridge, SP6 2EY**

The following statement is prepared in support of an application made under Section 191 of the Act which seeks to confirm as lawful the existing use of the subject building as a separate self-contained residential dwelling.

The building in question was initially erected as a stable building later converted to residential use.

The building was converted to residential use in 2001 and has been used as a self-contained dwelling continuously since that time.

The application is not a merits based application and the issues to consider relate only to whether or not the building in question has been used lawfully as a self-contained dwellinghouse for the requisite period of time to be immune from enforcement action. The application is submitted on the basis that lawfulness is sought by reason of immunity being gained by the passage of time.

The operation of Section 191 where immunity is claimed is such that the determination is based upon the time that the application is made. Section 171B of the Act states: -

*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 4 years beginning with the date of the breach.*

For the purposes of this particular application, the Applicants need to demonstrate that the use of the property as a self-contained dwellinghouse in breach of planning



control has been taking place for a period in excess of 4 years prior to the date of the application. It is also useful for the purposes of completeness and in the context of Section 171B to set out the time when the breach began which was in 2001.

The evidence which accompanies the application demonstrates that the breach has been taking place since 2001 but in any event since July 2017 which is 4 years prior to the date of the lawful development certificate application.

The evidence is comprised of a number of Assured Shorthold Tenancy Agreements dating from 2009. These leasehold agreements in 2009, 2011, 2013 and 2015 are each for the terms of 24 months.

The submitted rent book shows monthly rent collections since 2001. While the rent book does not refer to the names within the lease agreements, the rental amounts collected tie in with the change of lease agreements. The amounts collected in 2011 and 2012 for example are £550 and the increase to £575 took place in January 2013 when the new AST was agreed.

The lease granted in 2017 is shown to be for a period of 48 months which is the equivalent of 4 years. The lease has been agreed for a further term of 48 months more recently in 2021 after the expiry of the 2017 agreement. The property has been occupied by the same tenants since 2009 evidenced by the name of the tenants within the AST agreement. The landlord has also remained consistent in the period since 2001.

The application is also accompanied by a series of water bills from 2014 to 2022 which demonstrate that the property has been rated separately for water bill charges.

The property is arranged as a self-contained dwelling with primary living accommodation, sleeping accommodation, washing and cooking facilities. The application is accompanied by a floor plan.

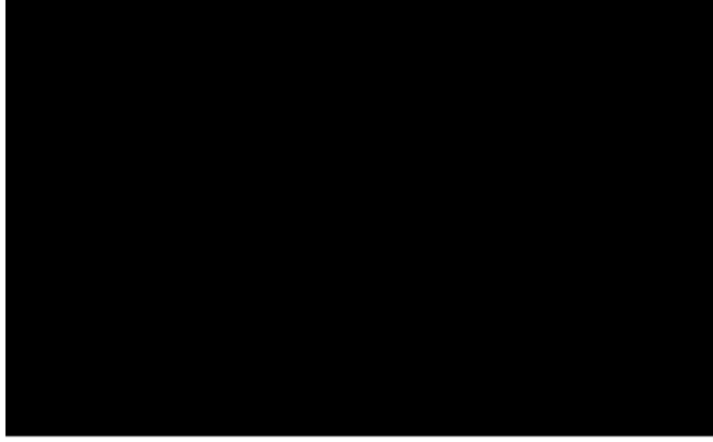
Section 191 of the Act states: -

- (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);

Clearly the property has been used without planning permission as a self-contained residential dwelling well beyond the requisite period of time in which to gather immunity. As a consequence and as a matter of fact and law, the building can lawfully be considered to be a self-contained dwellinghouse for planning purposes.

The Applicants therefore respectfully request that a lawful development certificate be issued confirming that the use of the property as a self-contained dwelling is lawful.

Yours sincerely



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