

PLANNING STATEMENT



February
2024

Slodbrook Farm, Rode, Frome, BA11 6QQ

Application for certificate of lawfulness for the existing residential use of Slodbrook Farm including the erection of a residential dwellinghouse with extension.

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1. INTRODUCTION

- 1.1. Context Planning Ltd have been instructed to prepare and submit this application for a certificate of lawfulness for existing use and development on behalf of the applicant, Mr Dennis Swift.
- 1.2. The application seeks a Lawful Development Certificate for an existing development under the provisions of Section 191 (1)(a) of the Town and Country Planning Act 1990. This application seeks to confirm that the property known as Slodbrook and its curtilage (as shown on Plan 1) has been in residential use for a period in excess of 10 years as to be lawful in planning terms. Furthermore, this application seeks to establish that the erection of a new residential dwelling and subsequent extension have been completed for a period in excess of four years as to be lawful in planning terms.
- 1.3. This Planning Statement sets out the relevant factual history relating to the historical and current residential use of the site and the erection of a residential unit (and subsequent extension), drawing on evidence presented in support of the application including:
 - Aerial imagery
 - Statutory declarations
 - Corroboratory letters
 - Photographs
 - Bills
 - Proof of address
 - Building regulation certification

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- 1.4.** If the application includes sufficient information for the Council to be able to issue a formal Certificate. The certificate shall (S191,(5));
- (a) specify the land to which it relates;
 - (b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
 - (c) give the reasons for determining the use, operations or other matter to be lawful; and
 - (d) specify the date of the application for the certificate.

2. THE SITE AND DEVELOPMENT

- 2.1.** This application relates to Slodbrook Farm, a detached residential property that is accessed off the A361. Whilst the applicant's land ownership covers a wider area, this application specifically relates to the (3-bedroom) dwelling, its curtilage (the red line) and the (3-bedroom) caravan as shown on the site location plan in Figure 1. There a number of other buildings and shipping containers on the wider site that relate to a different land use and do not form part of this application.
- 2.2.** The application site was purchased in 1975 by the applicant's late father, Mr Edwin Swift. Prior to its purchase the land had an agricultural use, however upon its purchase, Mr Edwin Swift brought a mobile home onto the site to live in. This changed the use of the land where the mobile home was located (and its curtilage) to a residential use.
- 2.3.** Mr Edwin Swift continuously lived in this mobile home from 1975 until 1992,
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when he replaced that mobile home with an old school classroom that he purchased (and converted) from Davis Demolition. He proceeded to continuously live in the converted classroom between the years of 1992-2006, when he moved into a sheltered accommodation in Beckington due to his declining health.



Figure 1- Site location plan.

- 2.4.** From 1990 onwards the applicant, Mr Dennis Swift, lived with his father 3 to 4 times a week at Slodbrook farm and in 2006 he moved in permanently. He has resided on this land continuously since then as his only residence.
- 2.5.** In 2017 construction work began to build a replacement dwelling in place of the converted classroom. During these works, the applicant bought the caravan (on Plan 1) onto the site to live in whilst the construction was taking place.

Construction on the new dwelling was completed in July 2018. The applicant then moved into the dwelling and the caravan has remained on site since, for ancillary purposes to the main dwellinghouse. In June 2019 further construction works began to add an extension to the dwellinghouse and these were finished in September 2019. Figures 2 and 3 shows the dwelling and caravan on the site.



Figure 2- Elevations of the dwelling (with the extension).

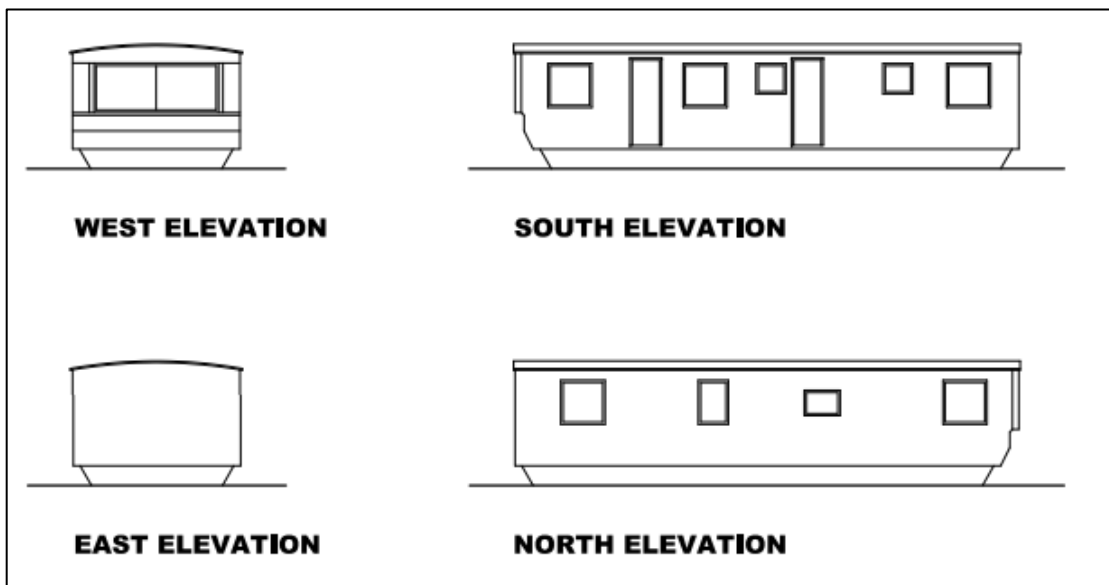


Figure 3- Caravan elevations.

- 2.6. The information above provides a brief history about the timeline and use of the site, as well as the operational development that has taken place. This application seeks to establish that Slodbrook farm and its curtilage (as shown on 'Plan 1') has been in residential use for a period in excess of 10 years as to be lawful in planning term and that the erection of a residential dwelling and subsequent extension have been completed for a period in excess of four years as to be lawful in planning terms.

3. LEGISLATION AND GUIDANCE

Town and Country Planning Act 1990

- 3.1. Section 191 of the Town and Country Planning Act 1990 makes provision for an applicant to ascertain the lawfulness of any existing use of buildings or other land, or any operations which have been carried out in, on, over, or under land. Section 191 of the Town and Country Planning Act 1990 states that:

“(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); and

(b) they do not constitute a contravention of any of the requirements of an enforcement notice then in force”

3.2. Section 171B of the Town and Country Planning Act 1990 states that:

“(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operation in, on, over or under land, 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.

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 of the breach”.

3.3. For the purposes of the Act operations are lawful at any time if— *“(4) 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”.

- 3.4.** Section 191 of the Act states that the relevant test is the ‘balance of probabilities’, and authorities are advised that if they have no evidence of their own to undermine or contradict the applicant’s version of events, there is no good reason to refuse the application provided the applicant’s evidence is sufficiently precise and unambiguous to justify the grant of a Certificate.

National Planning Practice Guidance (NPPG 2021)

- 3.5.** The appropriate tests for determining an application for a Lawful Use Certificate are set out in section 17c of the National Planning Practice Guidance (NPPG) which states:

"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. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a 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."

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- 3.6. The NPPG advises that the local planning authority: *“needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process”*.
- 3.7. On the basis of the above, it is necessary to determine, based on the balance of probability, whether the land has been in residential use in excess of 10 years and the operational development has been in situ and substantially complete for a period in excess of 4 years.

4. THE EVIDENCE AND ASSESSMENT

- 4.1. The following section will demonstrate that there is sufficient evidence, that the land outlined in ‘plan 1’ has been in residential use in excess of 10 years and that the erection of the new dwelling and the extension took place over 4 years ago as to be lawful through the passage of time.

Aerial imagery

- 4.2. The evidence section of this planning statement will begin with evidencing aerial imagery of the site which will demonstrate the timeline of the operational development and the residential buildings that have been on the site historically.
- 4.3. The earliest aerial imagery available is from 1999 (Figure 4) which shows the classroom (in the red square) on the site. Although the quality of this aerial image is grainy, it does clearly show the position of the classroom building which is the same as the aerial images from the following years.



Figure 4- Aerial image of the site from 1999 (Source- Get Mapping).

- 4.4.** By 2001 (Figure 5) an additional caravan had been bought onto the site to the east of the classroom, however that caravan does not feature in this application or the curtilage of the residential area as outlined on ‘Plan 1’ as this caravan was removed in 2017, prior to when the current caravan (included on ‘Plan 1’) was bought onto the site.



Figure 5- Aerial image of the site from 2001 (Source- Google Earth Pro).

- 4.5.** The classroom building remained in situ until 2017. Several example aerial images from between 2002-2016 are shown in Figures 6 and 7, should the council require further aerial images these are available in the public domain or can be provided upon request.
- 4.6.** The aerial images show that the building remained in situ throughout this period. In 2017 the construction of a new dwelling began and this is when the caravan (seen on site today) was bought to the site, for the applicant to live in during

these works. This new dwelling was built in the same location as the classroom had been. Figure 8 shows the caravan and evidences part of the construction process (on the roof of the building). Figure 9 then shows the completed building with the caravan positioned next to it.

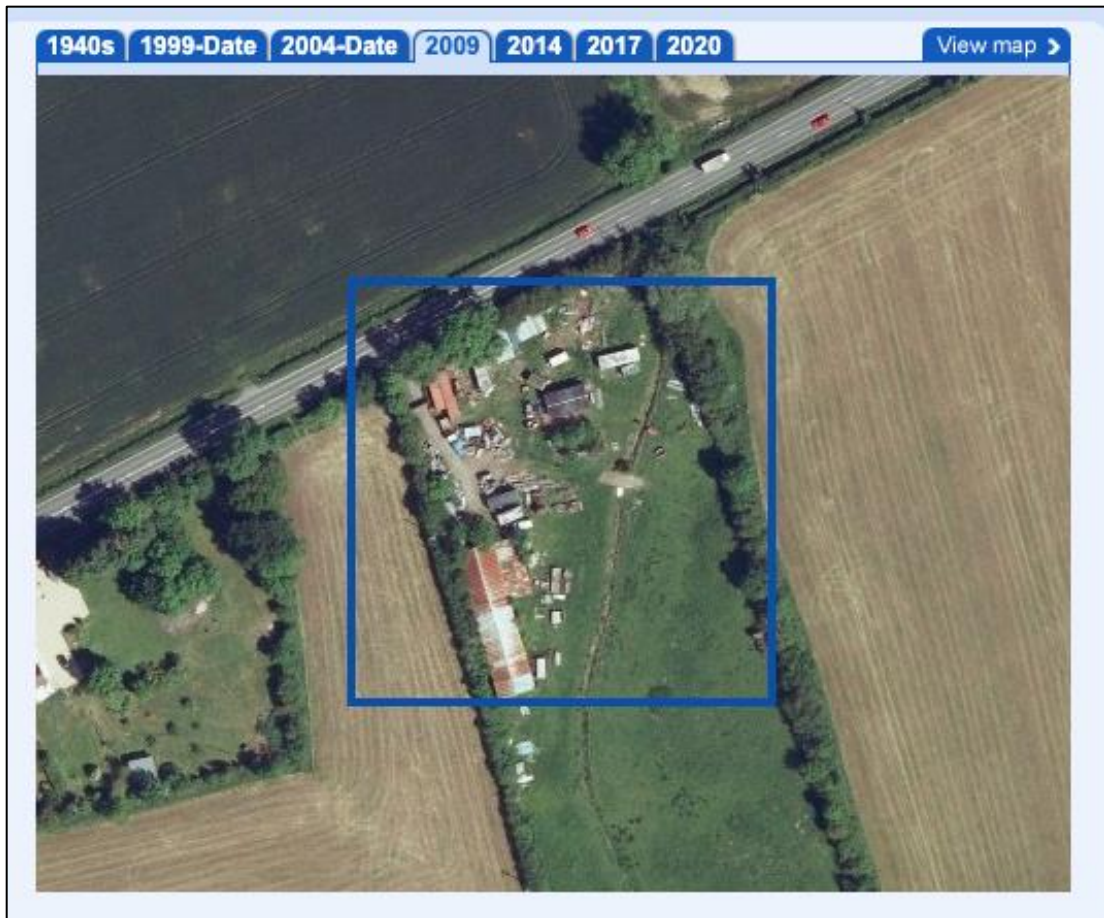


Figure 6- Aerial image of the site from 2009 (Source- Get Mapping).



Figure 7- Aerial image of the site from 2014 (Source- Get Mapping).

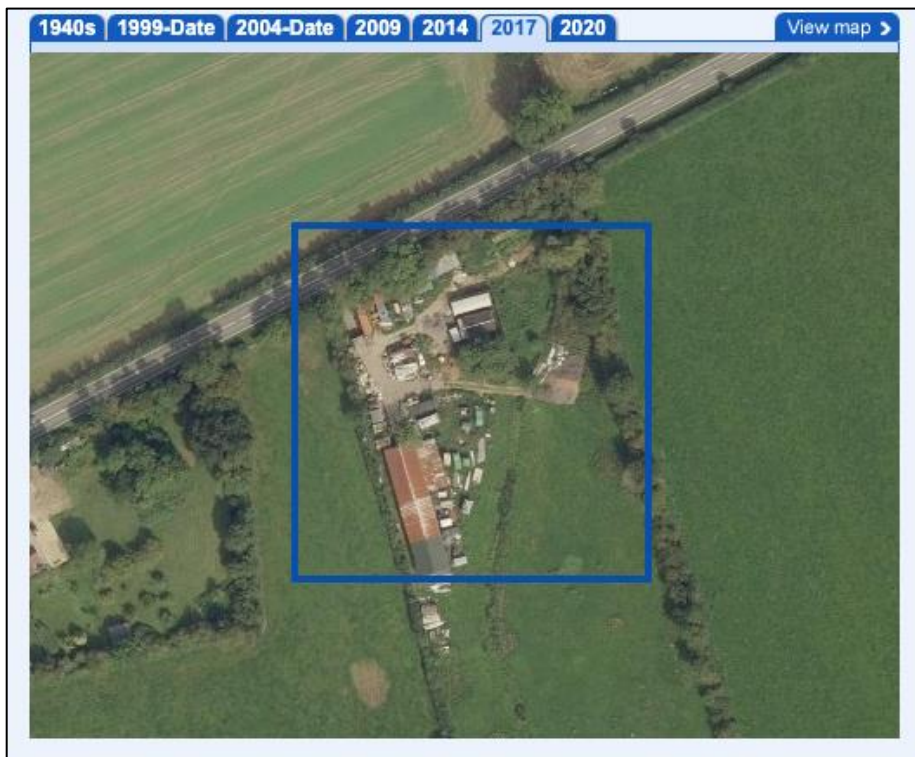


Figure 8- Aerial image of the site from 2017 (Source- Get Mapping).



Figure 9- Aerial image of the site from 2018 (Source- Google Earth Pro).

- 4.7. The extension to the dwelling was begun in June 2019 and was finished in September 2019. Aerial imagery records do not have an entry from 2019 to include in this statement, the closest one is in from 2020 (Figure 10) and clearly shows the extension added to the western elevation of the dwelling.



Figure 10- Aerial image of the site from 2020 (Source- Google Earth Pro).

- 4.8. Since construction, both the dwelling and extension have remained in situ and in residential use. From the aerial imagery shown in this section, it has been evidenced that from 1999 (the earliest available record) the classroom building has occupied the site and that this was replaced with a new build dwelling in the same location in 2018, which was then extended in 2019. The caravan shown on 'Plan 1' was first seen on the aerial images in 2017 and remains in-situ since this date.

Statutory declarations

- 4.9. Submitted alongside this planning statement, in the documents for this

application, are 4 statutory declarations relating to the residential use and operational development at Slodbrook farm (see Appendices).

- 4.10.** Significant weight should be given to Statutory Declarations, under Section 5 of the Perjury Act 1911, if you knowingly and wilfully make a statutory declaration that is false in a, you are guilty of an offence. The contents are a true reflection of the facts and this evidence should therefore be accorded appropriate weight.
- 4.11.** The first statutory declaration is from Mr Dennis Swift (appendix 1) who lives on site and as such has direct knowledge of the facts. His father bought the land in 1975 and brought a mobile home onto the site for residential purposes. In 1992 the mobile home was replaced by an old school classroom converted into a dwelling and this remained on site until 2017.
- 4.12.** In 2017 a new dwelling was created to replace the classroom and was built in the same location as the classroom had been previously. Whilst these construction works were taking place the caravan was brought on site to live in and remains in place today. Construction of the dwelling was completed in 2018 and there was a subsequent extension added and completed in 2019.
- 4.13.** Between the years of 1975 to 2006, Slodbrook Farm was Mr Edwin Swift's only permanent residence until he moved into sheltered accommodation. As Mr Dennis Swift's statutory declarations details, he himself had been staying 3 to 4 times a week with his father at Slodbrook farm from 1990 onwards and moved in permanently in 2006, when his father moved out. This has meant that Slodbrook Farm, and the associated curtilage as indicated on the location plan, has been continually occupied for residential purposes from 1975 to the present day. This exceeds the 10 years that means the change of use is legal through the passage of time.

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- 4.14.** Both the erection of the replacement dwelling and its extension were completed over 4 years ago, as to also be lawful through the passage of time. The land upon which the replacement dwelling was built, and thereafter extended, was in the same position as the converted classroom and its associated curtilage. There was no further material change of use of land in this regard in connections with these acts of operational development.
- 4.15.** The next statutory declaration is from Ms Kim Maundrill (Appendix 2) who was the partner of Mr Dennis Swift from 1997-2008 and who together share a daughter (Miss Chantelle Swift).
- 4.16.** Ms Maundrill corroborates that Mr Dennis Swift lived with his father 3 to 4 times a week from 1990 until 2006 when he moved into Slodbrook Farm permanently. Ms Maundrill visited Slodbrook Farm regularly during the duration of their relationship, during which she had first-hand experience in seeing the residential use of the converted classroom. After their separation, Ms Maundrill continued to visit the property to drop off and collect her daughter from staying with her father for the weekend when she was a child. She states that throughout this time she saw the property continually in residential use.
- 4.17.** Miss Chantelle Swift's (Appendix 3), the eldest daughter of Mr Dennis Swift and Ms Kim Maundrill also provides a statutory declaration. Within this document, Miss Chantelle Swift states that she would regularly stay with her father during weekends and recalls staying overnight in the property and as such has seen it in continuous residential use.
- 4.18.** The final statutory declaration is from Mr David Fuller (Appendix 4), a farmer who farms the neighbouring fields to Slodbrook Farm. Mr Kenneth Fuller (his father) would get his trees felled by Mr Edwin Swift (Dennis's father) and from this Mr David Fuller has known Edwin and his son Dennis for his entire life.
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- 4.19.** Additionally, as the farmer of the neighbouring land he has seen first-hand the use of the land and any operational development that has occurred. He has also visited the property, both during the occupation of Mr Edwin Swift and latterly Mr Dennis Swift. During these occasions he observed that the property was in use for residential purposes. Furthermore, Mr Fuller confirms that he witnessed the erection of the new build in 2017/18 and its extension in 2019.
- 4.20.** To conclude, the four statutory declarations all corroborate the fact that Slodbrook Farm (marked with an X on 'Plan 1') has been in residential use for a period in excess of 10 years. All of the statutory declarations were made by people who have direct knowledge of the site and that are able to contribute to the corroboration of the information presented in this application.

Corroboratory letters:

- 4.21.** Alongside the above statutory declarations, there are two corroboratory letters that accompany this application. The first letter is from Mr Andy Davis who has been a neighbour of the site since 1991 (Figure 10). He is also the brother of the owner of Davis Demolition who supplied the classroom that was converted and lived in from 1992 to 2017. He confirms that he has visited the site and seen first-hand the residential use and operational development of the new build (2017/18) and extension (2019). As a neighbour of the site Mr Davis has direct experience and knowledge and can corroborate the timeline and use of the land.

My name is Andrew Davis, I am a neighbour to Dennis Swift of Slodbrook Farm, Rode Common, Rode, BA11 6QQ,

I have known Dennis and his late father, Edwin Swift since moving to the area in 1991.

Edwin purchased a school classroom from Davis Demolition (my brother) back in 1992, I helped deliver the classroom in two parts to Slodbrook Farm and sited in position to enable Edwin and Dennis to convert to a residential chalet of which they lived in.

Dennis then lived in a mobile home whilst he built the new dwelling on the footprint of the chalet, this was being built in 2017 which Dennis moved in to. I often visited the site to see how the build was developing.

In 2019 Dennis built and completed an extension to which incorporated the new entrance, utility and wc's.

I have remained a good neighbour to Edwin and Dennis and likewise they have been to me.

We have always exchanged the skills of our professions to help one another and intend to in future years.

Yours sincerely



Andy Davis

Monks Lake Farm, Monksley Lane, Rode Common, Rode, Somerset, BA11 6QQ

Figure 10- Corroboratory letter from Mr Andy Davis.

- 4.22.** The second letter is from Mr Andrew Fussell (Figure 11) who farms the neighbouring land. He states that to his knowledge there has been a residential dwelling (converted classroom) on the land and that he personally saw the building of the new dwelling in 2017/18 and extension in 2019. This information corroborates the information provided in this statement.

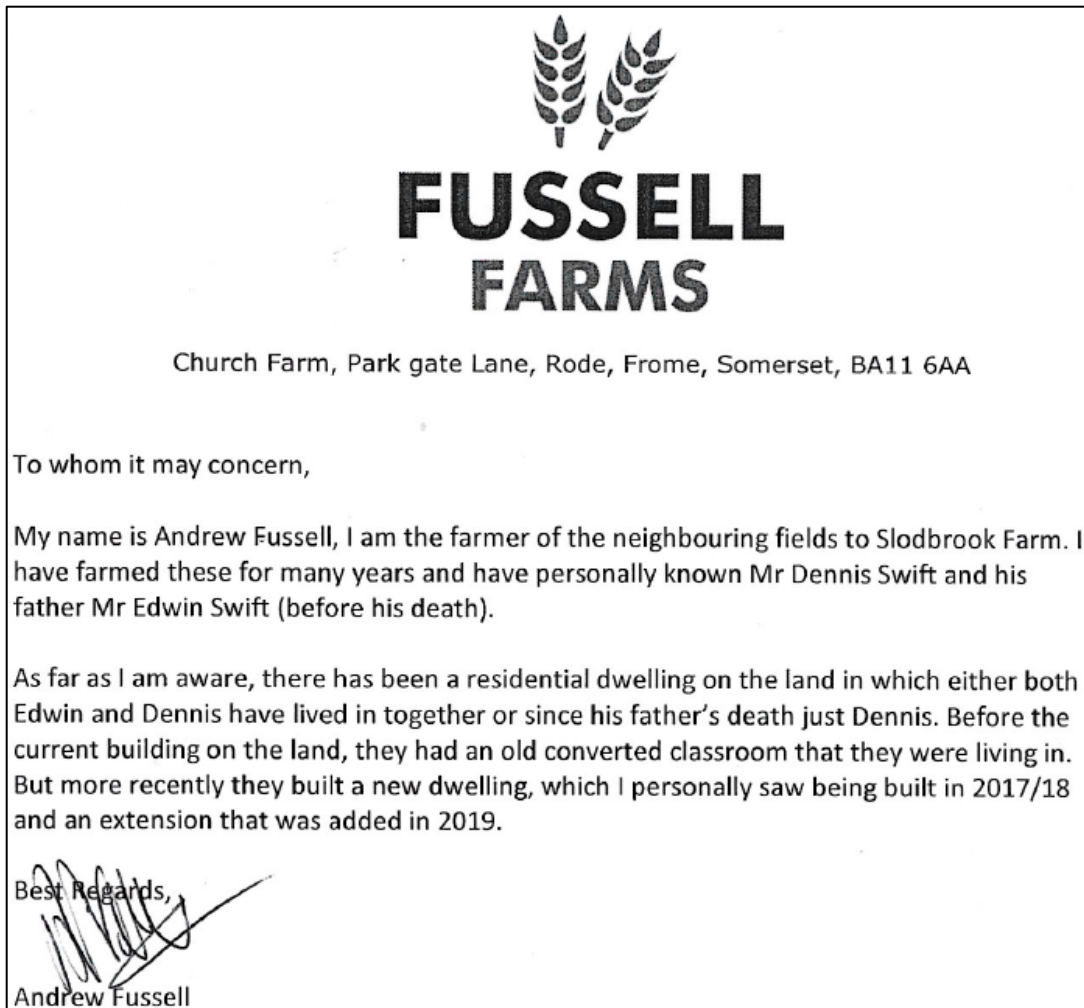


Figure 11- Corroboratory letter from Mr Andrew Fussell.

- 4.23.** The two above corroboratory letters confirm the information provided in this application by a further two third party sources who both have relevant direct knowledge of the residential use and operational development that has taken place at Slodbrook Farm.

Photographs:

- 4.24.** The two photographs in Figure 12 are dated from around 1978 and show the applicant Mr Dennis Swift as a child and his father Mr Edwin Swift using the swimming pool that they built in the curtilage of Slodbrook Farm where they

were residing in a caravan.



Figure 12- Photographs dated from 1978.

Bills:

- 4.25.** This section will include evidence from a number of bills, which are consistent with living in a residential property. The first type is energy bills (Figures 13-15), for the property at Slodbrook Farm.

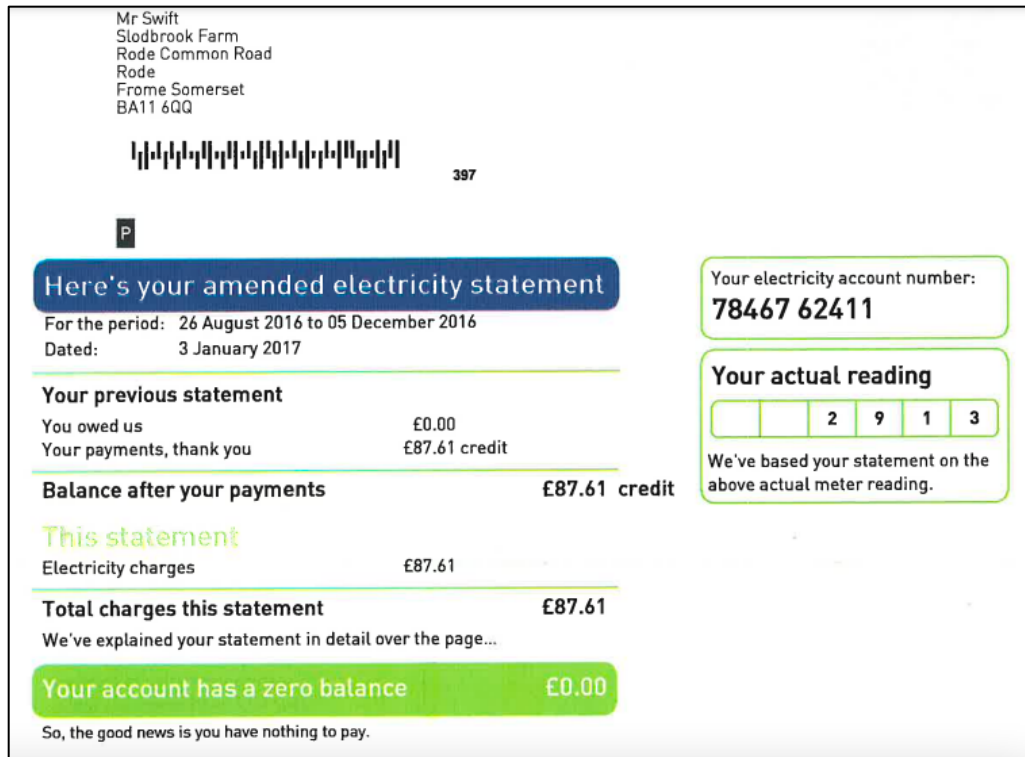


Figure 13- Energy statement for 2016 (letter dated 2017).

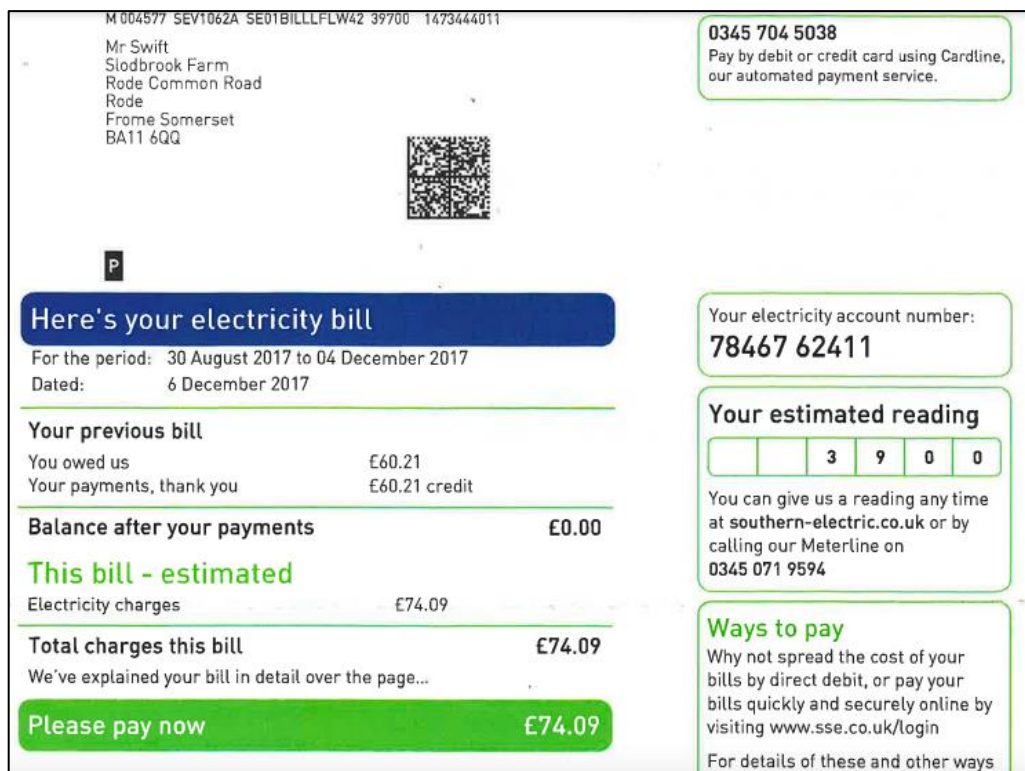


Figure 14- Energy statement for 2017 (letter dated 2017).

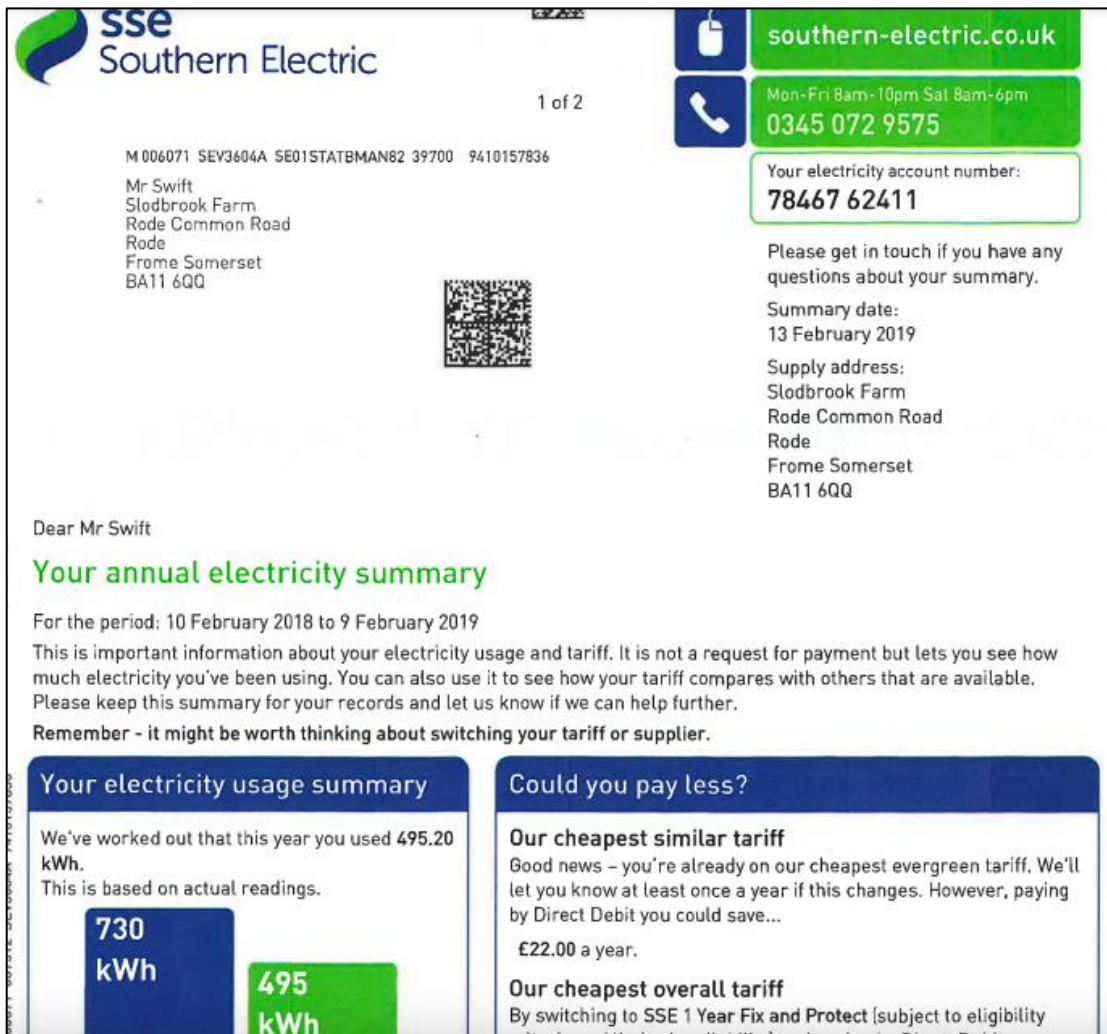


Figure 15- Energy statement for 2018-19 (letter dated 2019).

- 4.26. The above figures demonstrate that energy usage at Slodbrook farm was consistent with occupation as a residential dwelling.
- 4.27. Figures 16-19 are a selection of documents demonstrating that a TV license was in place at the property.

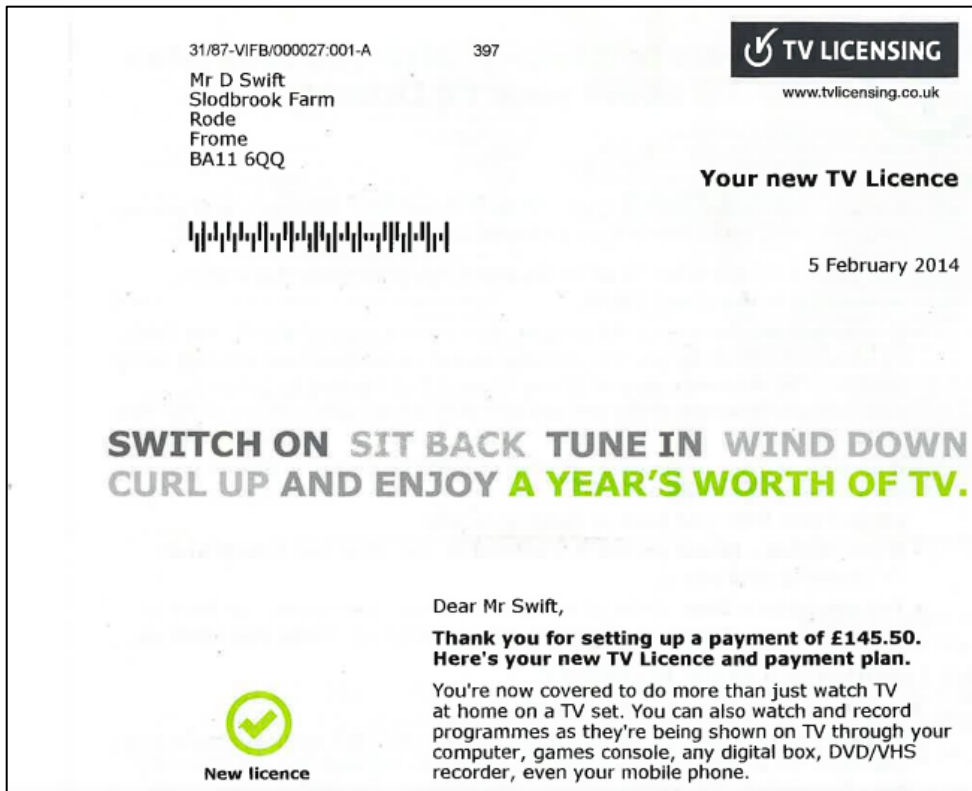


Figure 16- Extract from a TV license confirmation letter (2014).

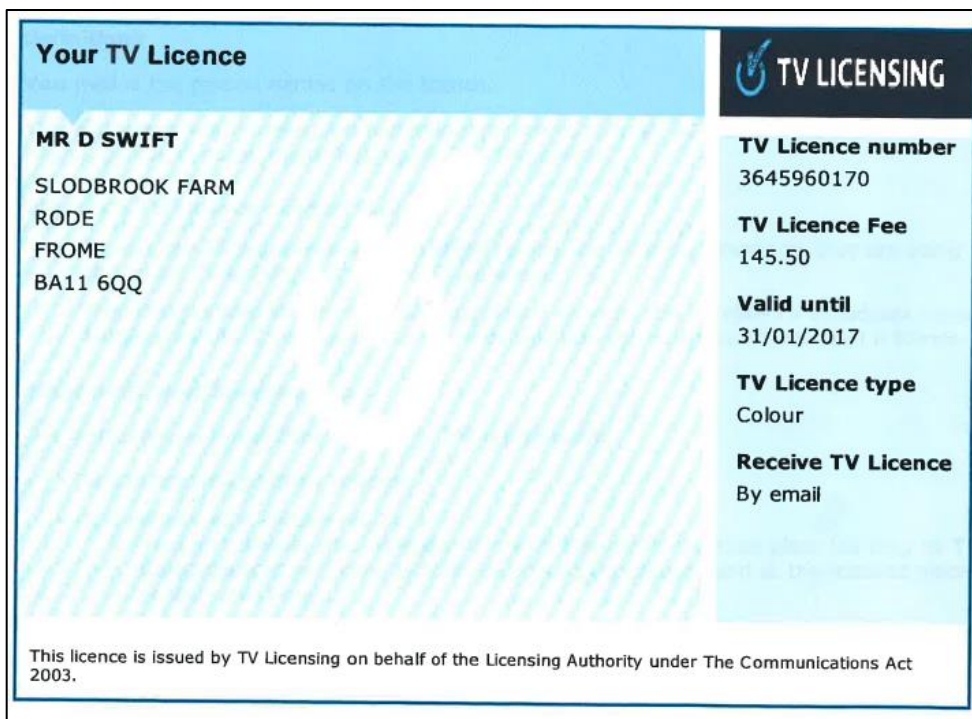


Figure 17- Email extract of TV license confirmation (2017).

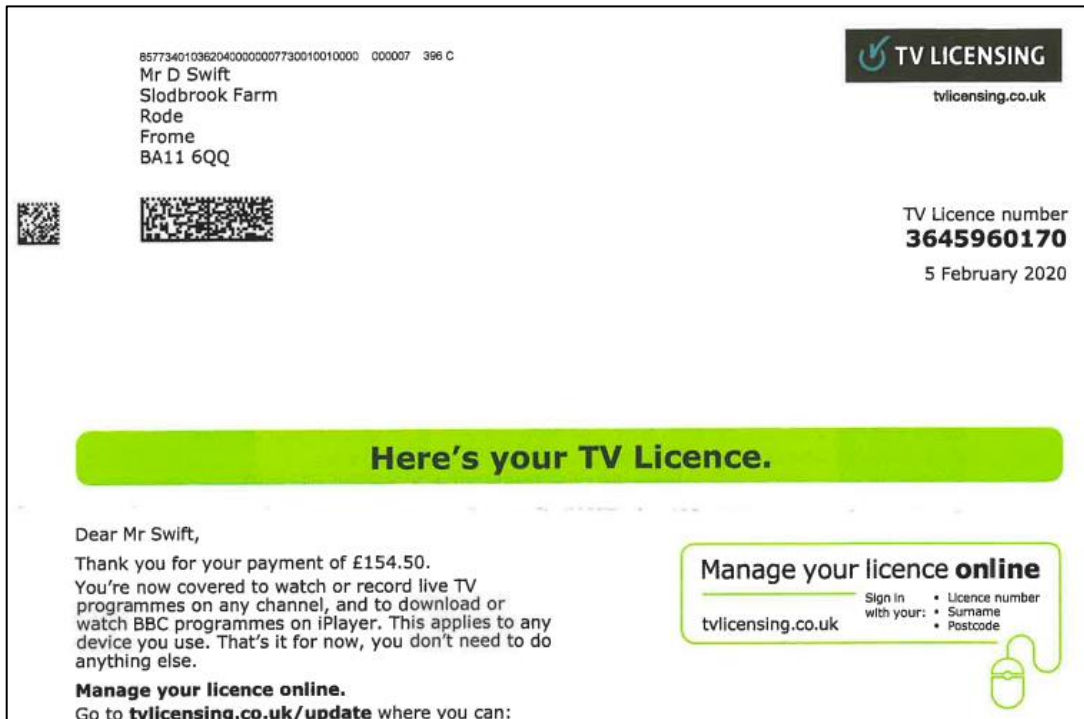


Figure 18- Letter extract of TV License confirmation (2020).

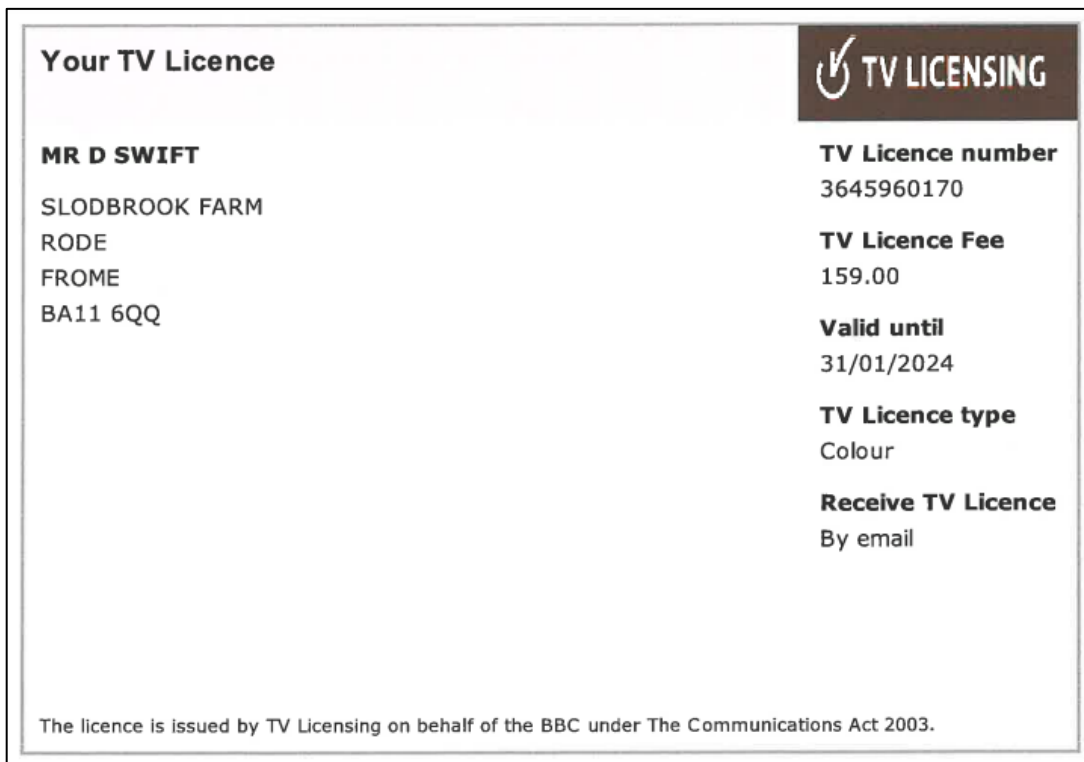


Figure 19- Email Extract from TV License confirmation (2023).

4.28. Figures 20 and 21 evidence example phone bills for the years of 2017 and 2018.



Figure 20- Example phone bill extract 2017.



Figure 21- Example phone bill extract 2018.

- 4.29.** The receipts shown in this section indicate regular use of electric, TV license and phone bills, consistent with that of a property used as a residential dwelling. The property is not on mains gas.

Proof of address:

- 4.30.** Alongside the bill evidence above, there are a number of other documents from a variety of sources that document Mr Swift's address as Slodbrook farm. Below are two example polling cards from 2016 (Figure 22) and 2019 (Figure 23) which clearly show Mr Swift's registered address as Slodbrook Farm.




<p>Poll card</p> <p>Election of the Police and Crime Commissioner for Avon and Somerset police area</p> <p>Date of election: Thursday 5 May 2016</p>		  <p>C9 10017</p>					
<p>Voting information</p> <table border="1"> <tr> <td>Polling day</td> <td>Thursday 5 May 2016</td> </tr> <tr> <td>Voting hours</td> <td>7am to 10pm</td> </tr> <tr> <td>Your polling station will be</td> <td>RODE AND DISTRICT MEMORIAL HALL HIGH STREET RODE FROME SOMERSET BA11 6PZ</td> </tr> </table>			Polling day	Thursday 5 May 2016	Voting hours	7am to 10pm	Your polling station will be
Polling day	Thursday 5 May 2016						
Voting hours	7am to 10pm						
Your polling station will be	RODE AND DISTRICT MEMORIAL HALL HIGH STREET RODE FROME SOMERSET BA11 6PZ						
<p>Your details:</p> <p>DENNIS A SWIFT SLODBROOK FARM RODE COMMON RODE FROME BA11 6QQ</p> <p>00033 397</p> <p></p> <p>Number on register: DX 679/1</p>							
<p>For information on candidates standing in your area:</p> <p>Go to www.choosemypcc.org.uk</p> <p>Or call 0800 1 07 07 08</p> <p>Please turn over</p>		<p>Helpline number: 01749 341590</p> <p>Email: elections@mendip.gov.uk</p> <p>Website: www.avonpccselection2016.org.uk</p>					
		<p>You do not need to take this card with you in order to vote.</p> <p>035253</p>					

Figure 22- Polling card from 2016.

<p>Poll card</p> <p>Election of a District Councillor for the RODE & NORTON ST. PHILIP Ward of Mendip District Council</p> <p>There may also be a PARISH OF RODE poll held at the same time.</p>		<p>0056909 39704914 0045</p> <p>Your details: DENNIS A SWIFT SLOBBROOK FARM RODE COMMON RODE FROME BA11 6QQ</p>	<p>RODE</p>						
<p>Date of election: Thursday 2 May 2019</p>									
<p>Voting information</p> <table border="1"> <tr> <td>Polling day</td> <td>Thursday 2 May 2019</td> </tr> <tr> <td>Voting hours</td> <td>7am to 10pm</td> </tr> <tr> <td></td> <td> Polling Station No. 73 RODE AND DISTRICT MEMORIAL HALL HIGH STREET RODE FROME SOMERSET BA11 6PZ </td> </tr> </table>		Polling day	Thursday 2 May 2019	Voting hours	7am to 10pm		Polling Station No. 73 RODE AND DISTRICT MEMORIAL HALL HIGH STREET RODE FROME SOMERSET BA11 6PZ	<p>Number on register: DX 693</p>	
Polling day	Thursday 2 May 2019								
Voting hours	7am to 10pm								
	Polling Station No. 73 RODE AND DISTRICT MEMORIAL HALL HIGH STREET RODE FROME SOMERSET BA11 6PZ								
<p>Please turn over</p>		<p>Helpline numbers: 01749 341391 and 01749 341475</p> <p>Email: elections@mendip.gov.uk Website: www.mendip.gov.uk</p>							

You do not need to take this card with you in order to vote.
0056909

Figure 23- Polling card from 2019.

4.31. The next letter extract is from a DVLA vehicle registration letter dated 2016, which further evidences Mr Swift's address (Figure 24).



 <p>Driver & Vehicle Licensing Agency</p>	<p>Driver and Vehicle Licensing Agency Longview Road Morriston Swansea SA6 7JL</p>
<p>13 2597600 00749 00749 1072 39709</p> <p>DENNIS SWIFT SLOBBROOK FARM RODE FROME BA11 6QQ</p> 	<p>Phone: 0300 790 6802 Textphone: 0300 123 1279 Website: www.gov.uk/vehicle-registration Date: 22 August 2016</p>
<p>Dear Mr Swift</p> <p>Vehicle registration number: DU05 BWG Make: VAUXHALL Model: ASTRA ENVOY DTI 16V</p> <p>Thank you for your recent application for a Vehicle Registration Certificate (V5C) for the above - mentioned vehicle. We are dealing with your request.</p> <p>Your application was processed on 05/09/2016 and a V5C issued to you. Please contact us if you have any queries about your application.</p>	

Figure 24- Extract of a DVLA vehicle registration letter from 2016.

4.32. The following figures (25-28) are a selection of example bank statement extracts from 2015-2021 which show his registered address as Slodbrook Farm.

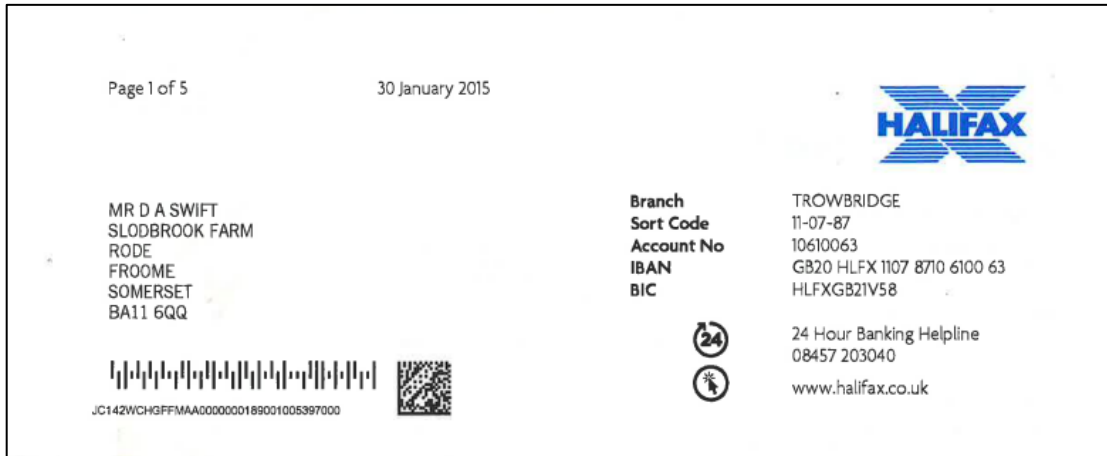


Figure 25- Bank statement extract from 2015.



Figure 26- Bank statement extract from 2017.

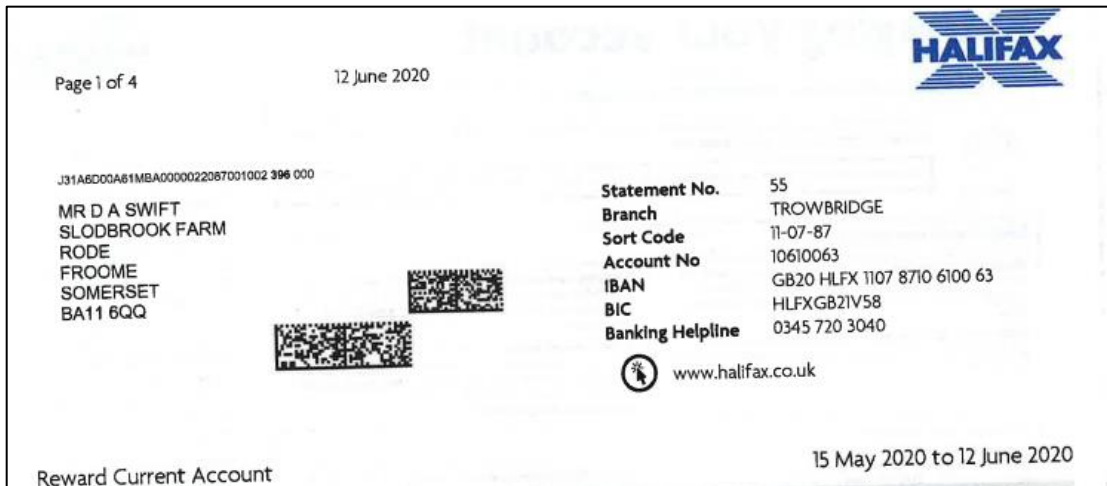


Figure 27- Bank statement extract from 2020.

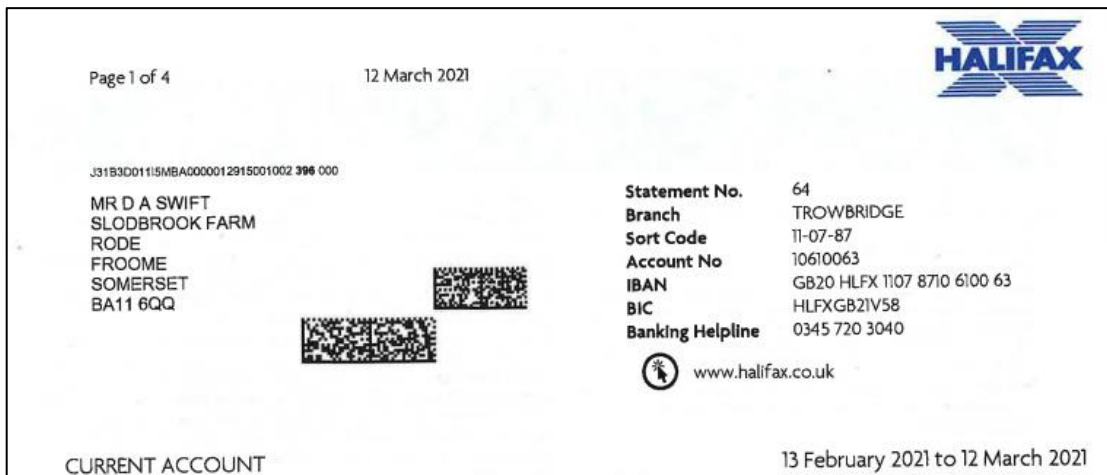


Figure 28- Bank statement extract from 2021.

- 4.33.** All of the above evidence highlights that Mr Swift's address is and has been Slodbrook Farm in line with the other information supplied in this statement.

Building regulations:

- 4.34.** Figure 29 shows a building regulations compliance certification in relation to the new build dwelling that was constructed in the years 2017/18. This certificate confirms that the building was completed in 2018 and that it was compliant with the relevant building regulations.



Figure 29- Building regulations certificate dated 2018.

5. CONCLUSION

- 5.1.** The evidence that accompanies this certificate of lawfulness application, including aerial imagery, statutory declarations, corroboratory letters, photographs, bill evidence, other proof of address documents and building regulation certificates unequivocally establishes that Slodbrook Farm has been

in residential use continuously since 1975 and that the new build property and its extension have been completed and in situ for a period in excess of 4 years.

- 5.2.** The evidence in support of this application is considered to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. As such, the development is considered lawful for planning purposes in accordance with Section 171B of the Town & Country Planning Act 1990. For the above reasons a certificate of lawfulness should therefore be issued.

Isabelle Reynolds BSc (Hons)