

**APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR THE USE
OF AN OUTBUILDING AS A SELF-CONTAINED DWELLING**

AT

**THE FORMER STABLES, VALE HOUSE, STOCKBURY VALLEY,
STOCKBURY,
SITTINGBOURNE, KENT, ME9 7QD**

SUPPORTING PLANNING STATEMENT

TABLE OF CONTENTS

1. Introduction	3
2. Site description and review of planning history	4
3. Justification for why the certificate of lawfulness should be granted	5
4. Conclusions	8

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1. Introduction

- 1.1 This report is written in support of an application for a Certificate of Lawfulness for an existing use of an outbuilding as a single dwelling. The application seeks to confirm that this use is lawful in terms of relevant planning legislation.
- 1.2 Vale House is a detached two-storey dwelling located in a generous plot. The site is accessed from and located to the south-east of the A249. The Former Stables is a single storey former stable lock within the boundary of Vale House. It has its own living accommodation and has parking and turning area to the front.

2. Site description and review of planning history

2.1 The dwelling subject to this application is located to the front of Coombe End an existing detached dwelling. The planning history for the property is as follows:

Year	LPA Ref.	Description	Decision
2023	23/504990/FULL	Retrospective application for change of use from horse stables to 1 bed studio.	Refused
2000	99/1466	Erection of detached single storey building comprising 2no. Stables/tack room and change of use of land for the keeping of horses	Permitted

2.2 The dwelling subject to this application is single storey and comprises the following accommodation:

- Main living area with kitchen.
- Bathroom.
- Shower room.

2.3 As indicated by the site's planning history, the stables were granted planning permission in 2000, and it is understood that works commenced soon after the granting of planning permission. Condition 2 of the 2000 planning permission required the building to only be used for the private stabling and keeping of horses.

3. Justification for why the certificate of lawfulness should be granted

3.1 Section 191 of The Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, provides that any person may apply to the local planning authority to ascertain whether an existing use of a building or land is lawful.

3.2 Subsection 4 of section 191 of the Town and Country Planning Act 1990 establishes that if:

“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”.

3.3 Subsection 2 of section 191 of the Town and Country Planning Act 1990 clarifies that for the purpose of the Act a use shall be considered to be lawful at any time if:

- 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
- they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

3.4 Section 171B of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, states the following in respect of time limits:

171B Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations 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.”

(2) 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) 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.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

3.5 As confirmed by the Supreme Court in *First Secretary of State v Arun District Council* 10 August 2006 ([2006] EWCA Civ 1172), the change of use of a building to a residential property, as is the case here, is required to show a continuous use for four years to become 'lawful'.

3.6 The Planning Practice Guidance "Lawful Development Certificates" states that:

"An application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. This does not preclude another application being submitted later on, if more information can be produced." (paragraph 005).

3.7 It is noted that the test to which applicants are required to meet is that on the 'balance of probabilities' the use has existed for the required time period. In this regard, the Government's Planning Practice Guidance on Lawful Development Certificates states that:

"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." (Paragraph: 006 Reference ID: 17c-006-20140306)

3.8 It is acknowledged that Condition 2 of the 2000 planning permission for the stables restricted the use. Whilst a 'breach of condition' generally requires 10-years to become immune from enforcement action, in accordance with *FSS v Arun DC & Brown* [2006] EWCA CIV 1172 the four-year limit in Section 171B(2) applies where a building is being used as a dwellinghouse.

This approach has been confirmed by a number of Inspectors, including a decision at The Paddock, Magpie Hall Road, Kingsnorth (Appeal Reference: APP/E2205/X/21/3288463). Consequently, we believe that it is necessary for the applicant to demonstrate that on the balance of probabilities, the material change of use of the building took place on or before 4-year prior to the date of this application (March 2020). However, even if the LPA were to consider that the 10-year rule applies, the applicant can also demonstrate compliance with that requirement (March 2014).

- 3.9 This supporting planning statement sets out the following evidence that establishes that the dwelling, subject to this application, is lawful.
- 3.10 Signed Statutory Declarations from Mr Sivagnanam Arulparam that he converted the former stables to an independent dwelling in March / April 2013 and that it has been in continuous use as an independent dwelling since then. As the Signed Statutory Declaration has been signed and sworn in the presence of a Commissioner for Oaths, it should be afforded significant weight.
- 3.11 Signed Statutory Declaration have also been provided from Mr Krisin Arulparam who has lived at the property since 2005, and remembers the property being converted.
- 3.12 Signed Statutory Declaration from Mr Harjinder Singh Sethi who visited the property during its conversion in 2013. He has since visited the property and it remain in residential use.
- 3.13 Copies of tenancy agreements for the following:
- Tenancy agreement between the applicant and Miss Harika Bojanadu (July 2016 – June 2020)
 - Tenancy agreement between the applicant and Mr Michael Leigh Young (August 2020 – December 2020)
 - Tenancy agreement between the applicant and Miss Victoria Roberta Mosby (February 2021 – to present)
- 3.14 The tenancy agreements clearly relate to the building in question, as the property subject to the agreement is listed as ‘Stable Conversion’ or ‘Stable Conversion/Anex’.
- 3.15 Pictures of the stable conversion clearly showing the property being used as a residential property in 2015 have been supplied.

- 3.16 The property is not registered separately for Council Tax purposes. However, we note that application 23/504453/LDCEX was recently granted a Certificate of Lawfulness by the Council which did not have a separate Council Tax record nor utility supply.
- 3.17 With no evidence to the contrary, it is considered that the above provides clear and unambiguous evidence that the property has been in continuous use in excess of the 4 and 10-years required.

4. Conclusions

- 4.1 This report has highlighted that the application for a Lawful Development Certificate relating to use of a building as single dwelling is lawful.
- 4.2 Therefore, in the absence of any other evidence to justify otherwise it is respectfully requested that a Lawful Development Certificate is approved.