

Lawful Development Certificate

Lawful development certificate to establish a certificate of lawful existing use for the primary and permanent residential (C3) occupation of a static caravan and associated access, private amenity space and ancillary outbuildings at Bank Farm, Shenton Lane, Dadlington, CV13 6JD.

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Introduction

The purpose of this application is to demonstrate on the balance of probabilities that under Section 191 of the Town & Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) the land and any existing structures subject to this application are lawfully recognised as a land forming the primary and permanent residential (C3) address for the applicant and any resident dependents, and is afforded statutory protection as such under the 10 year time limitation of the 1990 Act.

Planning considerations:

Section 191 of the Town & Country Planning act 1991 specifies that a Certificate of lawfulness of existing use or development can be issued for the following purposes:

- (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 any enforcement notice then in force.
- (3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—
 - (a) the time for taking enforcement action in respect of the failure has then expired; and
 - (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.
- (4) If, 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; and in any other case they shall refuse the application.
- (5) A certificate under this section shall:
 - (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.

Evidence

The application is supported by a Statutory Declaration that confirms the land has been actively and consistently used as the permanent residence (C3) by the applicant in excess of 10 years. Private and confidential evidence is submitted in support of this certificate in the form of photos and utility bills and further evidence of this nature can be supplied upon request if deemed necessary.

Conclusion

The sworn declaration provided by the applicant combined with this statement and the private and confidential supporting documents are sufficiently precise and unambiguous to demonstrate the lawful planning use subject to this application. There is no suggestion the applicant has taken any positive steps to disguise the breach of planning control or any other measures that would warrant forfeiting the statutory protection afforded by the 10 year time limitation of the 1990 Act and as such a Certificate of Lawful Existing Use should be issued on this basis.