

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/00689
APPLICATION TYPE:	Lawful development: Existing use
SITE ADDRESS:	Dairy Cottage, Pinkney, Sherston, Malmesbury, SN16 0NZ
DEVELOPMENT DESCRIPTION:	Application to demonstrate that a change of use of Dairy Cottage, used as a single dwellinghouse, is lawful
RECOMMENDATION:	Lawful Development Certificate for an Existing Use / Development should be ISSUED

REASON FOR APPLICATION

Under the provisions of Part VII, Section 191 of the Town and Country Planning Act 1990 (TCPA), an application for a certificate of lawfulness of existing use or development has been made to the Local Planning Authority (LPA).

Paragraph (1) of Section 191 indicates that:

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 limitations 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.

Paragraph (4) forms the planning issue for assessment, and states:

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.

Following review of all information provided, the application is understood to have been made under the provisions of (1)(a). For the purposes of clarity, the provided description has been substituted by the LPA to the following:

Application to demonstrate that a change of use of Dairy Cottage, used as a single dwellinghouse, is lawful

THE SITE

The site is a section of a building (and area of land adjacent) which was originally used as stables in association with Park Farm in Pinkney; a small village in Malmesbury. Grade II listed ‘Park Farmhouse’ and ‘Barn to South East of Park Farmhouse’ are directly north-west and south, respectively.



Figure 1: map view of site (red)



Figure 2: aerial view of site (2025)

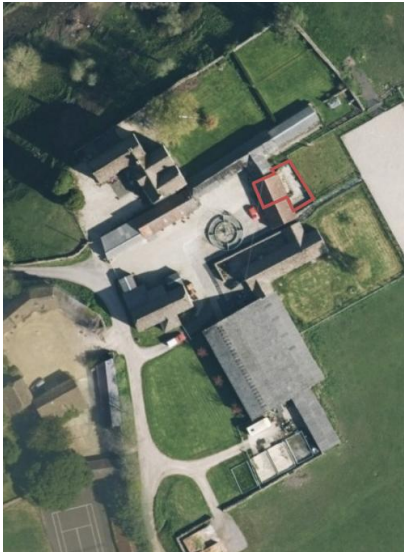


Figure 3: aerial view of site (2014)

The conversion of the building to allow it to be used as ancillary residential accommodation was granted planning permission, subject to conditions and legal agreement (S106) in 1999.

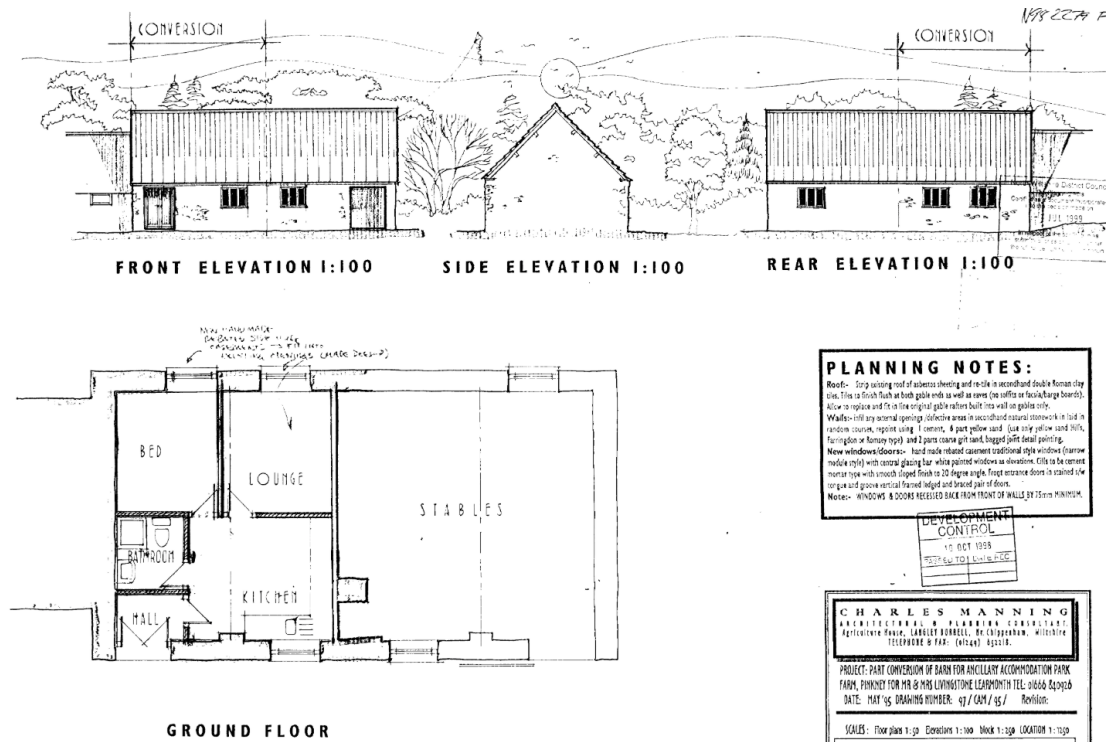


Figure 4: partial extract of approved plans

INFORMATION PROVIDED IN SUPPORT OF THE APPLICATION

The following summarised information was provided by the applicant for LPA assessment:

Application form	Indicating: - the existing use of <i>Dairy Cottage</i> is as a <i>separate and independent single dwellinghouse</i> - <i>Dairy Cottage</i> benefits from an unfettered planning permission REF: 98/02278/FUL [...] this CLEUD application seeks to demonstrate that the lawful use of <i>Dairy Cottage</i> is and always has been as a separate and independent dwelling, with this use beginning on the 6th December 1999 when the dwellings was substantially completed and first occupied	Signed and dated on 30.01.2026 Received as part of this application on 02.02.2026
Planning Statement	Indicating: - <i>The Certificate is sought to acknowledge the existing lawful use of Dairy Cottage as a single dwellinghouse.</i> - The address is <i>Dairy Cottage, Pinkney, Sherston, Malmesbury, SN16 0NZ</i> - <i>From 05.12.1999 to the present day, the occupants of Dairy Cottage have used the Residential Accommodation permitted, as a separate and independent single dwellinghouse, with no reliance upon Park Farm for their day to day needs.</i>	Prepared by PPC Agricultural Tie Specialists, referenced s191-2512-v-1 Received as part of this application on 02.02.2026
Statement of Truth	Peggotty Livingstone-Learmonth: - Owner of the property - Conversion was in 1999 - Registered for Council Tax in December 1999 - Dairy Cottage and Park Farm are neighbours but there is no inter-connectivity - Dairy Cottage has had parking to the front and Entrance leading to a Kitchen/Diner, a Bedroom and Bathroom with an enclosed Garden to the rear. - From 1999, noone who has occupied Dairy Cottage has had independent access to Park Farm - The dwelling was first occupied by Leisa Calder, employed by the owner as a groom, from December 1999 – 2002 and later between 2005 - 2006 - Mary Delaney occupied Dairy Cottage straight from 2002 – 2005 - Louise Botham moved into Dairy Cottage on 01.08.2006 and worked part time as a groom for the owner (alongside other appointments) until 2015.	Signed and Dated 30.01.2026 Received as part of this application on 02.02.2026

	- From 2015 Louise Botham paid rent and bills for Dairy Cottage from 2015 until she moved out on 04.02.2024 - Renovation work was carried out before Toby Pickthall moved in on 01.06.2024	
Statutory Declaration	Peggotty Livingstone-Learmonth: - Owner of the property - Mr & Mrs Livingstone-Learmonth Snr purchased Park Farm dwellinghouse, a neighbouring courtyard of outbuildings/stables and approximately 4-5 acres of land on the north side of Park Farm in 1967 - A breeze block wall was erected between Upper Farm buildings and the Courtyard of outbuildings/stables. - Dairy Cottage has contained all things required for day to day living and have been used and occupied as a separate and independent home by all those who have lived there since conversion - Dairy Cottage and the outbuildings have their own vehicular access off of the public highway - Dairy Cottage has allocated parking spaces and a covered 'garage' space within the courtyard stable block as well as a fenced off private garden to the rear. - Dairy cottage has been registered for Council Tax since completion in 1999 and falls within Band A - Dairy cottage is a separately registered postal address - Dairy Cottage has its own, separate, Septic Tank - Electricity is connected to Dairy Cottage via Park Farm and has a separate sub-meter. - Water is connected to Dairy Cottage via Park Farm - Initially Dairy Cottage was occupied by employed grooms, after 2015 there was no further need for a groom but the occupation of Dairy Cottage continued - Paid rent by a tenant who wasn't employed as a groom started in 2018	Signed and Dated 27.08.2025 Received as part of this application on 10.02.2026
Council Tax Listing	Screenshot of tax.service.gov.uk website showing: - Local Authority Reference Number 19800160064000 - Council Tax Band A - With effect from 05.12.1999	Undated Received as part of this application on 02.02.2026
Plans	Location Plan, 2512-03 Block Plan 2512-04	Received as part of this application on 14.03.2025

RECENT, RELEVANT PLANNING HISTORY (inter alia)

Within the red line of the site:

N/98/02279/FUL granted planning permission for the *change of use from stables to residential accommodation* on 12.07.1999

A S106 agreement was entered into prior to planning permission being granted (signed 20.05.1999) the covenants within have been extracted as figure 5 below:

- (a) The Owner will not sell or lease for any term or otherwise dispose of the Main Dwelling unless such sale or lease or other disposition shall include the Additional Accommodation
- (b) The Owner will not sell or lease for any term or otherwise dispose of the Additional Accommodation unless such sale or lease or other disposition shall include the Main Dwelling
- (c) The Owner shall not cause or permit the Additional Accommodation to be used or occupied other than by members of the Owner's family or friends or by the Owner's employees employed solely or mainly at Park Farm aforesaid and in a manner incidental to the enjoyment of the main dwelling as a single dwellinghouse
- (d) The Owner shall within six months of the granting of the said planning permission remove from the Land the residential caravan currently situate thereon and will dismantle and remove from the Land the concrete block wall currently situate in front of the proposed Additional Accommodation and identified shaded green on the Plan

Figure 5: partial extract of S106 associated with N/98/02279/FUL

POLICY CONTEXT AND GUIDANCE

[Planning Policy Guidance \(PPG\)](#)

[Town and Country Planning Act 1990 \(TCPA\)](#)

- Part III: Control over development
 - o Section 55: Meaning of 'development' and 'new development'
 - o Section 56: Time when development begun
 - o Section 57: Planning permission required for development
 - o Section 91: General condition limiting duration of planning permission
- Part VII: Enforcement
 - o Section 171A: Expressions used in connection with enforcement
 - o Section 171B: Time limits
 - o Section 191: Certificate of lawfulness of existing use
 - o Section 193: Certificates under sections 191 and 192: supplementary provisions
- Part XV: Miscellaneous and general provisions
 - o Section 336: Interpretation

[The Planning Act 2008 \(Commencement No. 8\) and Levelling-up and Regeneration Act 2023 \(Commencement No. 4 and Transitional Provisions\) Regulations 2024](#)

RELEVANT INTERPRETATIONS AND EXPRESSIONS

Section 55 of the TCPA states that:

- (1) [...] *“development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.*

Section 56 of the TCPA states that:

- (1) [...] *development shall be taken to be initiated –*
 - o (b) [...] *at the time when the new use is instituted*

Section 57 of the TCPA states that:

- (1) [...] *planning permission is required for the carrying out of any development of land [...]*

Section 171B of the TCPA states that:

- [...] (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 –*
 - o (a) *the service of a breach of condition notice in respect of planning control if an enforcement notice is in effect; or*
 - o (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.*

ISSUES

The application made under Section 191 of the TCPA, referenced PL/2025/00689 requests a certificate of lawfulness to demonstrate that a change of use of Dairy Cottage, used as a single dwellinghouse, was lawful at the time the application was made.

The application for a certificate of lawfulness was signed on 30.01.2026 and made valid on 11.02.2026. The application site relates to a converted section of stables, and area of amenity land adjacent.

The key planning issue is whether the LPA have been provided with information satisfying them of the lawfulness at the time the application was made. To reach a conclusion, the following areas of assessment are being made:

- Whether sufficiently precise evidence has been provided to demonstrate that the lawful use of the site is residential, as a single dwellinghouse, by the passage of time
- Whether the LPA have any evidence to contradict the applicant's version of events

CONSULTATION AND REPRESENTATIONS

Whilst there is no statutory requirement to consult third parties on applications for a lawful development certificate, Wiltshire Council publicised details of application PL/2025/00689 on its website (with the facility to make a public comment enabled) and sent a notification letter to Sherston Parish Council on 11.02.2026

Sherston Parish Council: No Objection

No Objection to the proposed removal of the S106 Agreement

Officers note: The Parish Council's comment on the removal of the S106 does not explicitly relate to this certificate request; however, by omission of any explicit comment on the subject, does not provide any lack of local knowledge for the LPA to assess which may contradict the applicant's version of events.

At the time of writing, no public representations have been received.

ASSESSMENT

Whether sufficiently precise evidence has been provided to demonstrate that the lawful use of the site is residential, as a single dwellinghouse, by the passage of time

The application has been submitted with planning statement, statement of truth, statutory declaration, plans and screen shot of a council tax listing for 'Dairy Cottage, Park Farm, Pinkney, Sherston, Malmesbury, Wilts, SN16 0NZ' with effect from 05.12.1999

The provided Council Tax screenshot shows that Dairy Cottage was registered as a 'Mixed-Use Property' which indicates that the chargeable site is a residential property also used for business. No evidence has been provided as part of this application to show that business rates apply, or previously applied, to Dairy Cottage; however, the 'mixed-use property' marker on the council tax property information is considered consistent with accommodation which may be used by staff.

The provided planning statement, statement of truth and statutory declaration, provide a clear timeline of events. The statutory declaration, being a formally sworn statement made with legal consequences for falsehood, carries substantial evidential weight in determining this certificate application. Exhibits and statements within that declaration appropriately link the chargeable council tax site to the certificate site and, overall, the package of evidence provided as part of this application sufficiently evidences the applicant's version of events and no contradictory evidence has been provided by the applicant to otherwise make the evidence imprecise.

Whether the LPA have any evidence to contradict the applicant's version of events

Outside of that which has been provided by the applicant, detail available to the LPA which has been used to aid assessment included:

- Publicly accessible aerial photographs
- Publicly accessible planning history
- Publicly accessible council tax and business rates information
- Publicly accessible local land and property gazetteer (LLPG) address dataset

Initial review of the submission against LLPG data raised provisional concerns that reference to 'Dairy Cottage' throughout the submission may not be synonymous with the site which forms part of this certificate request, and that which was granted permission under N/98/02279/FUL; however, reviewing the submission as a whole, and taking into account that an exhibit within the statutory declaration provides a clear and legally weighted link between 'Dairy Cottage' and the certificate site, the LLPG data is not taken to be evidence that substantially contradicts the applicant's version of events. The site is, therefore, understood to be known as 'Dairy Cottage' for the purposes of this application.

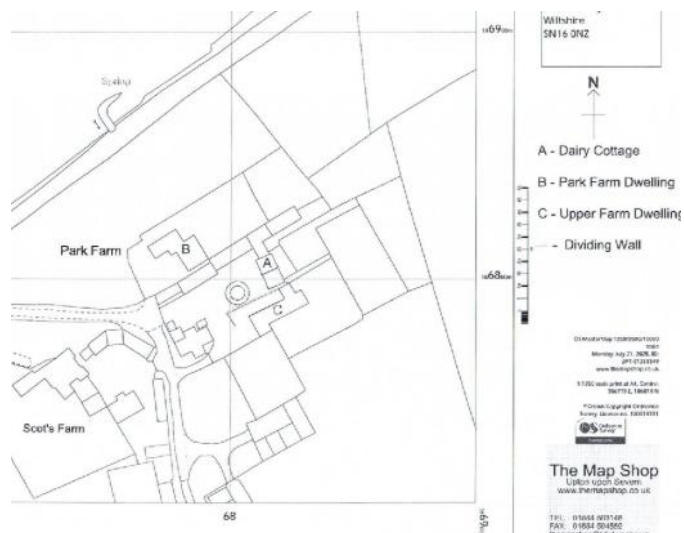
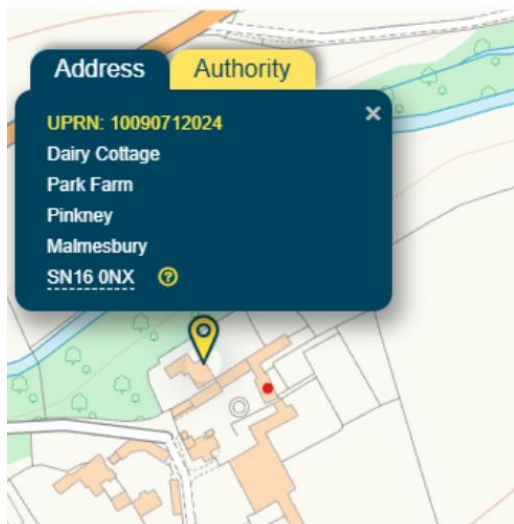


Figure 6: LLPG for 'dairy cottage' (yellow) & certificate site (red) Figure 7: partial extract of plan linking 'Dairy Cottage' to site

No information reviewed by the LPA substantively contradicts the applicant's version of events.

SUMMARY AND CONCLUSION:

The application form was signed on 30.01.2026; evidence provided indicates that the time for taking enforcement action for failure to comply with any condition or limitation restricting the use of the site as an independent dwelling under planning permission N/98/02279/FUL had expired prior to that date.

Planning permission granted in July 1999 included a S106 agreement which restricted (amongst other things) the accommodation to be used in a manner **incidental** to the enjoyment of the main dwelling (park farm) as a single dwellinghouse, the plans approved under that historic permission show facilities which would indicate an intended **ancillary** use from the offset, however. The evidence provided as part of this application indicates that since 2015 the building (which has its own facilities for cooking, sleeping and living) ceased any ancillary use in 2015 by virtue of having

no functional connection to the main dwelling, and consequently commenced use as an **independent** dwelling at that time.

The LPA has no substantive evidence themselves to contradict the applicant's version of events and has been provided with information satisfying them that, on the balance of probabilities, the site has a lawful use as an independent dwelling.

RECOMMENDATION: A Lawful Development Certificate for an Existing Use or Development should be ISSUED

INFORMATIVES TO APPLICANT:

- This Certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 and applies only to the red-line of 'the site' as shown on location plan 2192-01 (dated 05 March 2025).

It certifies that the change of use of the building to a single dwellinghouse was lawful on 30.01.2026

Any development which is materially different from that described or relates to any other land may render the owner or occupier liable to enforcement action.