

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR EXISTING USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/02021
APPLICATION TYPE:	Lawful development: Existing use
SITE ADDRESS:	1 Bincknoll Farm Cottages, Royal Wootton Bassett, Swindon, SN4 8QT
DEVELOPMENT DESCRIPTION:	Certificate of lawfulness (existing use) for continued residential use of No. 1 and No. 2 Bincknoll Cottages without complying with agricultural occupancy condition on a Register of Plans Deposited dated 24th June 1965
RECOMMENDATION:	Approve

SITE DESCRIPTION AND PROPOSAL

This application is for a Certificate of Lawfulness for an Existing Use or Development (CLUED) under Section 191 of the Town and Country Planning Act 1990 (as amended). The applicant seeks to establish the lawfulness of the unrestricted residential use of the properties known as 1 and 2 Bincknoll Farm Cottages. This use of no. 1 has been ongoing since 2004, and the use of no. 2 been ongoing since 2013. The application relates to the breach of condition 1 of the planning permission (reference: 223/65) granted on 24 June 1965, which states the following:

That the occupation of each dwelling shall be limited to a person employed or last employed locally agriculture as defined in Section 221(1) of the Town and Country Planning Act, 1962, or forestry, or a dependent of such person residing with him (but including a widow or widower of such person).

Reason for Imposing Conditions:- To define the permission.

RELEVANT LEGISLATION AND CONSIDERATIONS

The statutory framework governing Certificates of Lawfulness for Existing Use or Development (CLUED) is primarily set out in Section 191(2) of the Town and Country Planning Act 1990 (as amended). This section establishes that "lawful development" refers to development against which no enforcement action may be taken and where no enforcement notice is in force, or development for which planning permission is not required.

Section 191(4) of the Town and Country Planning Act 1990 (as amended) further stipulates that a Local Planning Authority (LPA) shall issue a Certificate of Lawfulness upon request, provided that, on the balance of probabilities, the LPA is satisfied that the existing development or use described in the application is lawful. The time limits for taking enforcement action are set out in s171B of the Act.

The Planning Practice Guidance (PPG) on [Lawful development certificates](#) clarifies that the burden of proof lies with the applicant. It is the applicant's responsibility to provide sufficiently

clear, precise, and unambiguous evidence to demonstrate the lawfulness of the existing development or use.

In considering whether the use or development has become immune from enforcement action, the test for granting a Certificate of Lawfulness is whether, on the balance of probabilities:

- a) the works were substantially completed, or,
- b) the use has been continuous for the required time period without interruption.

The applicant must prove that the use or development has occurred for the necessary period. A continuous use must be demonstrated without significant interruption.

It is important to note that when determining a CLUED application, the LPA must focus solely on whether, based on the facts and applicable planning law, the specific use or development is lawful. Planning merits or considerations relating to the quality or suitability of the development are not relevant.

REPRESENTATIONS

There is no legal obligation to consult third parties for this type of application, including Town/Parish Councils or neighbouring properties. However, the PPG recognises that it may be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application.

Broad Town Parish Council – No objection.

No representations from members of the public have been received at the time of writing.

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
223/65 – Erection of two semi detached farm cottages at Bincknoll Farm, Nr, Wootton Bassett – Approved 24/06/1965

ASSESSMENT

Evidence Submitted by the Applicant

The applicant has submitted the following evidence to support the application:

- Block Plans confirming the location of the properties;
- Photograph of register of plans deposited showing the planning permission 223/65 and the condition as stated above;
- Planning Statement confirming the purpose of the application and the continued unrestricted residential use of the properties;

- Tenant Information Sheet confirming the utility coverage and requirement for direct debit setup signed by Helen Hopgood, the Lettings Manager;
- Tenancy Deposit Protection Certificate confirming deposit payment made on 17 May 2013 by Helen Lee and Richard Bowman, tenants of No. 2 Bincknoll Farm Cottages, to Christopher Peachey, landlord of the properties;
- Tenancy Agreement for no. 2 between Mr and Mrs Peachey and Helen Lee Bowman for tenancy between 10 December 2019 to 9 June 2020 signed by both parties;
- Tenancy Agreement for no. 2 between Mr and Mrs Peachey and Helen Lee and Richard Bowman for tenancy between 1 June 2013 to 30 November 2013 signed by both parties;
- Tenancy Agreement note confirming granting of sole tenancy by Helen Bowman commencing on 1 November 2019, signed by Helen Bowman;
- Email from Helen Lee Bowman confirming that she was not employed by Chris Peachey and her renting of the cottage for 13 years;
- Tenancy Agreement for no. 1 between Mr and Mrs Peachey and Mr and Mrs Andersson signed by both parties on 26 May 2005 for tenancy between 15 May 2004 for 6 months;
- Letter from James Horton dated 3 May 2020 confirming payment of bill for water supply to RW Horton and Son;
- Statutory Declaration signed by Helen Lee, the tenant, and Jessica Belletty, a solicitor, dated 29 June 2026, confirming Ms Lee's continued tenancy at No. 2 since 1 June 2013 and non-agricultural employment history during this time;
- Statutory Declaration signed by G R Andersson, the tenant, and Jessica Belletty, a solicitor, dated 29 June 2026 confirming Mrs Andersson's continued tenancy at No. 1 since 15 May 2004 and non-agricultural employment history during this time;
- Statutory Declaration signed by C J Peachey, the landlord and applicant, and Jessica Belletty, a solicitor, dated 18 June 2026, confirming the continued tenancy at both properties by each tenant, the duration and their non-agricultural employment history during this time;
- Annual Bank Statements of Mr and Mrs Peachey demonstrating minimum of yearly payments made by each tenant since August 2015.

Assessment

The application has been supported by statutory declarations, a planning statement, tenancy agreements and associated tenancy information, together with bank statements.

The statutory declarations provided by the applicant/landlord and both tenants of each dwelling set out a clear and consistent chronology of events and confirm, from their respective first-hand knowledge, that both dwellings have been occupied in breach of Condition 1 of planning permission 223/65 for a period exceeding ten years prior to the submission of the application. The version of events provided within the declarations is further supported by the documentary evidence submitted. As formally sworn statements made under legal sanction, statutory declarations carry substantial evidential weight and must be afforded substantial consideration in the determination of the application unless there is compelling evidence to the contrary.

The application is also supported by bank statements for each year since 2015. These statements demonstrate rental payments being made by the tenants to the applicant in at least one month of each year. Whilst the bank statements do not provide a complete record of monthly rental payments throughout the entire period, they nevertheless indicate an ongoing

landlord-tenant relationship over a prolonged period. In the absence of evidence to suggest otherwise, it would be inherently unlikely that tenants would occupy the properties and make rental payments for only a single month in each year over a ten-year period. The evidence therefore lends support to the claimed continuity of occupation.

Officers have also reviewed Council Tax records relating to the properties. In respect of No. 1, Council Tax liability records identify Mr and Mrs Andersson as liable parties from 1999 onwards and indicate that they are also recorded as owners of the property. Whilst these details differ from aspects of the applicant's account, the records nevertheless demonstrate that the property has been occupied as a separate dwelling for a period significantly exceeding ten years. Consequently, irrespective of any discrepancy regarding ownership details, the records support the conclusion that unrestricted residential use has been ongoing for at least the relevant immunity period.

In relation to No. 2, Council Tax records show liability in the name of Helen Lee from 27 September 2019 onwards. This broadly corresponds with the evidence submitted regarding changes in occupation and the commencement of her sole tenancy around that time, and therefore provides further support for the applicant's account.

Although the Council Tax records do not correspond precisely with every aspect of the applicant's version of events, it is reasonable to accept that Council Tax records are maintained for taxation purposes and are not intended to provide a definitive record of occupation or land use. Liability records identify the person responsible for Council Tax and may not always correspond precisely with the actual occupiers of a property at any given time. Accordingly, any discrepancies between the Council Tax records and the applicant's evidence do not, in themselves, undermine the claimed history of occupation, particularly where that history is supported by sworn statutory declarations and other contemporaneous documentary evidence. Weight has therefore been given to the Council Tax records as part of the overall evidence base, but they have not been treated as determinative where more direct evidence of occupation has been provided.

The statutory declarations provide consistent and detailed first-hand accounts, while the tenancy agreements and bank statements corroborate the existence of long-term residential occupation and rental arrangements. Taken together, the evidence forms a coherent and verifiable body of information that is mutually reinforcing. On the balance of probabilities, and in the absence of substantive evidence to the contrary, it is considered more likely than not that the applicant's account is accurate and that the breach of Condition 1 has subsisted continuously for a period exceeding ten years prior to the date of the application.

On the basis of the above, the evidence submitted by the applicant demonstrates, on the balance of probabilities, that the use of the two dwellings, no. 1 and no. 2 Bincknoll Farm Cottages, has been continuous for the required 10 year period immediately prior to the date of the application, and therefore complies with the relevant provisions of the Town and Country Planning Act 1990 (as amended). As there are no other factors to suggest that the use is unlawful, the application for a Certificate of Lawfulness for an Existing Use is recommended for approval.

Specifically, the evidence submitted confirms that the unrestricted residential use in breach of condition 1 of planning permission 223/65 relating to restriction of residential use solely by those employed by agricultural work or their dependents has been ongoing for the required 10 year period prior to the date of the application at these two dwellings. There are no apparent gaps in the evidence or contradictions that would cast doubt on the lawfulness of the development. Therefore, the 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,

CONCLUSION

On the balance of probability, sufficient evidence has been provided to demonstrate that the unrestricted residential use of the two dwellings, no. 1 and no. 2 Bincknoll Farm Cottages, Royal Wootton Bassett identified on the site plan, in breach of condition 1 of planning permission 223/65, has been continuous for a period in excess of 10 years immediately prior to the point of submitting the application. As there is no clear or unambiguous evidence to the contrary submitted to or readily available to the Council, and as no formal enforcement action has been taken by the Council, it is recommended that on the balance of probabilities, a certificate of lawfulness be issued for the use of no. 1 and no. 2 Bincknoll Farm Cottages for unrestricted residential occupation.

RECOMMENDATION

It is recommended that a Certificate of Lawfulness for Existing Use or Development be granted for the following use:

The unrestricted residential use of No. 1 and No. 2 Bincknoll Farm Cottages, Royal Wootton Bassett, SN4 8QT, in breach of condition 1 of planning permission 223/65.

Reason for approval: As there is no clear or unambiguous evidence to the contrary submitted to or readily available to the Council, and as no formal enforcement action has been taken by the Council, it is recommended that on the balance of probabilities, a certificate of lawfulness be issued for the use of no. 1 and no. 2 Bincknoll Farm Cottages for unrestricted residential occupation. The evidence submitted satisfies the criteria set out in the Town and Country Planning Act 1990 (as amended), and the use meets the relevant time limits and planning law requirements.

INFORMATIVES:

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 (received 26 March 2026).

It certifies that the unrestricted residential use of the two dwellings known as No. 1 and No. 2 Bincknoll Cottages was lawful on 26 March 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.