

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR EXISTING USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/03376
APPLICATION TYPE:	Lawful development: Existing use
SITE ADDRESS:	Journeys End, Moor Lane, Charlton, Malmesbury, SN16 9DR
DEVELOPMENT DESCRIPTION:	Certificate of lawfulness (Existing) to confirm the on-going, and unrestricted occupation of the above property
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 property, which has been in operation at the site since November 2012. The application relates to the continued and ongoing unrestricted residential use of the property known as Journeys End, in breach of condition 2 of planning permission 31/NW/66 which restricts the occupancy of the dwelling to only agricultural workers or their dependents.

Condition 2 of planning permission 31/NW/66 states:

The occupation of the dwelling shall be limited to persons employed, or last employed, locally in agriculture as defined in Section 221(1) of the Act; or in forestry, and the dependents of such persons

Reason – The applicant has stated that this dwelling is required specifically for the purposes of using his land for agricultural purposes and permission would not have been granted save for this fact.

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.

No representations have been received at the time of writing.

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
483/NW/66 – Erection of a bungalow – Approved 31 October 1966
31/NW/66 – Erection of a bungalow (outline) – Approved 25 April 1966

ASSESSMENT

Evidence Submitted by the Applicant

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

- Covering Letter confirming the period of continued unrestricted residential use since November 2012 and providing a comprehensive evaluation of the evidence submitted;
- Signed letters by Mr Crawford, one of the tenants residing at the property between November 2012 to March 2016, confirming the tenants' occupation unrelated to agriculture and this period of unrestricted residential occupation;
- Bank statements of the applicants dating from June 2016 to January 2025 confirming rental payments being made by the relevant tenants on a monthly basis;
- Attached payslip of Mr Crawford confirming his employer is not related to agriculture;

- Tenancy agreements signed by all tenants and the applicants, who own the property, confirming the fixed term of tenancy of 12 months;
- An email dated 21 May 2026 from Fielder & Jones confirming the one of the tenants, Christopher Morris, residing in the property from March 2016 to August 2020 and confirming his employment as a horse dentist during his tenancy period;
- Letters signed by Andrew Lindsay and Lorraine Morrish dated 17 September 2025 confirming their period of tenancy from September 2020 to the signed date.

Assessment

The application has been supported by a covering letter, signed correspondences, bank statements from June 2016 to January 2025, payslip, and tenancy agreements.

The letters signed by the previous and existing tenants set out a clear and consistent chronology of events and confirm, from their respective first-hand knowledge, that the dwelling has been occupied in breach of condition 2 of planning permission 31/NW/66 for a period exceeding ten years prior to the submission of the application. The version of events provided within these letters are supported by the associated evidence submitted. It is acknowledged that the letters have been signed; however, they do not constitute sworn statutory declarations witnessed and endorsed by a solicitor or other authorised person. Accordingly, they cannot be afforded substantial evidential weight and should be treated as unverified statements from interested parties.

The application is also supported by a payslip issued to Mr Crawford, which indicates that, at a particular point in time, he was employed outside the agricultural sector. Whilst this provides evidence of non-agricultural employment during the period covered by the payslip, it does not conclusively demonstrate that this was the case throughout the entirety of his occupation of the property. Furthermore, the payslip does not provide any information regarding the employment history of other occupants whom the applicant states resided at the property from 2016 onwards.

The tenancy agreements submitted demonstrate a landlord-tenant relationship between the parties during at least three distinct periods: November 2012 to May 2013, March 2016 to March 2017, and September 2020 to August 2021. In the absence of evidence to the contrary, it is reasonable to conclude that the occupiers may have remained in residence at the property beyond the fixed terms under periodic or rolling tenancy agreements. However, this does not necessarily conclusively confirm the continuous use.

The above evidence is further supported by bank statements showing regular rental payments between April 2016 and January 2025. These records demonstrate the continued payment of rent by the occupiers throughout this period and therefore lend support to the applicant's claim that the property remained in continuous unrestricted residential use, but only until January 2025.

Following the above, officers have also reviewed Council Tax records for the property, which identify Andrew Lindsay and Lorraine Morrish as the liable parties from September 2020 to the present day. This evidence corroborates the applicant's account of occupation and further

supports the conclusion that the property has remained in unrestricted residential use from January 2025 up to the date of the application.

When taken altogether, the submitted details and evidence form a coherent and verifiable body of information and that is corroborative. The evidence submitted by the applicant demonstrates, on the balance of probabilities, that the use of the building and land within the red line area on the submitted Location Plan (received 27 May 2026) 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 of the property known as Journeys End, in breach of condition 2 of planning permission 31/NW/66 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. 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 dwelling known as Journeys End, Moor Lane, Charlton, identified on the Location Plan (received 27 May 2026), in breach of condition 2 of planning permission 31/NW/66, has been ongoing for a period in excess of 10 years prior to the date of 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 probability, a certificate of lawfulness be issued for the use of the dwelling known as Journeys End for unrestricted residential occupation.

RECOMMENDATION

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

The unrestricted residential use of Journeys End, Moor Lane, Charlton, Malmesbury, SN16 9DR, in breach of condition 2 of planning permission 31/NW/66.

Reason for approval: On the balance of probability, sufficient evidence has been provided to demonstrate that the unrestricted residential use of the dwelling known as Journeys End, Moor Lane, Charlton, identified on the Location Plan (received 27 May 2026), in breach of condition 2 of planning permission 31/NW/66, has been ongoing for a period in excess of 10 years prior to the date of the application. There is no clear contrary evidence showing otherwise, and no formal enforcement action has been taken by the Council. 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.