

TOWN & COUNTRY PLANNING ACT 1990

CERTIFICATE OF LAWFULNESS COMPRISING THE CONVERSION OF A FORMER AGRICULTURAL BUILDING INTO A SELF-CONTAINED DWELLINGHOUSE (USE CLASS C3), AND ITS EXISTING USE AS A SELF-CONTAINED DWELLINGHOUSE, TOGETHER WITH THE ASSOCIATED RESIDENTIAL CURTILAGE.

**AT: THE COTTAGE, DOWN FARM, THE PRY,
PURTON, WILTSHIRE, SN5 4JP**

PLANNING STATEMENT

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1.0 INTRODUCTION

1.1 Please find enclosed an application for a certificate of lawful existing use or development under section 191 of the Town and Country Planning Act 1990 for use as a separate dwelling (use class C3) at The Cottage, Down Farm, The Pry, Purton Wiltshire. This application is made on the behalf of Mr Frederick Cremin who is the owner of the property.

1.2 Enclosed with this application are the following documents and drawings in support of the requested Certificate of Lawfulness:

- Completed Application Form
- Drawing No. 26-031 v1-PL01 LOC – Location Plan
- Drawing No. 26-031 v1-PL02 BLOCK – Block Plan
- Drawing No. 26-031 v1-PL03 PLAN ELEV – Elevations
- Photographs of The Cottage
- A Statutory Declaration by Mr Cremin
- The following evidence:
 - HM Land Registry – Official Copy of Title Register (WT264533)
 - HM Land Registry – Title Plan (WT264533)
 - British Gas bill dated 23 January 2019
 - British Gas supply records from 31 October 2015
 - Wiltshire Council – Council Tax Liability confirmation dated 15 January 2005
 - Covea Home Insurance policy dated 2 January 2026
 - Covea Home Insurance policy dated 11 January 2016
 - Email from F.J. Cremin to Royal Mail Ltd dated 28 May 2026
 - Email from F.J. Cremin to Wiltshire Council dated 21 May 2026
 - Leaders Ltd letter dated 14 November 2015
 - Leaders' Ltd tenancy statement dated 6 February 2016
 - Royal Mail correspondence
 - Tenancy Schedule dated 28 January 2016
 - Wiltshire Council Tax Bill 2018–2019
 - Wiltshire Council Tax Bill 2021–2022

- Wiltshire Council Tax Liability confirmation for F.J. Cremin (covering period from 15 January 2005)
- Confirmation that Ron and Jane Cremin occupied The Cottage between 2010 and October 2015
- Confirmatory details of occupation of The Cottage
- Evidence of occupation by A. and S. Holgate (July 2019 – August 2025)
- Evidence of occupation by Roper Holgate, including Wiltshire Council Tax and Royal Mail correspondence
- Evidence of occupation by Tallulah Roper (August 2025 – April 2026)
- Google Earth Historic Satellite Images (1 January 2002; 21 October 2003; 12 September 2005; 1 January 2006; 24 March 2009; 28 May 2012; 15 April 2014; 18 April 2017; 7 December 2018; 18 September 2019; 20 September 2019; 20 April 2021; 20 June 2022; 9 September 2023).
- Historic Electoral Register Records (2000–2015)
- Historic Tenancy and Letting Evidence – The Cottage, Down Farm, The Pry, Purton (2005–2008)
- Integrale Ltd – Phase II Contamination Report, Proposed Residential Conversion, Down Farm, The Pry, Purton, Swindon, Wiltshire, SN5 4JP (Report No. 8830, December 2017)

2.0 SITE DESCRIPTION

- 2.1 The Cottage comprises a detached two storey dwelling with private garden situated at Down Farm, The Pry Purton. The site lies in open countryside situated to the northeast of Purton and northwest of Swindon. The site also lies to the southeast of Cricklade.
- 2.2 Provided below is an aerial photograph showing the site's location within its wider context.



Application Site

- 2.3 The Cottage itself comprises an L shaped building and sits alongside other former workshops, one of which has been converted into two dwellings. The Cottage has a modest hardstanding area for parking and a private garden on its southern side which is laid to grass.



The Cottage – Front (South Elevation)



The Cottage – Rear (North Elevation)



The Cottage Side (West Elevation)

- 2.4 Internally, the Cottage operates as a fully functioning private dwelling with ground floor kitchen, dining room and living room. On the first floor is a landing, bathroom and three bedrooms.



The Cottage Entrance Hallway



The Cottage – Kitchen/Dining Area



The Cottage – Living Room



The Cottage – First Floor Landing Area



The Cottage – First Floor Bedroom



The Cottage – First Floor Bathroom

3.0 PLANNING HISTORY

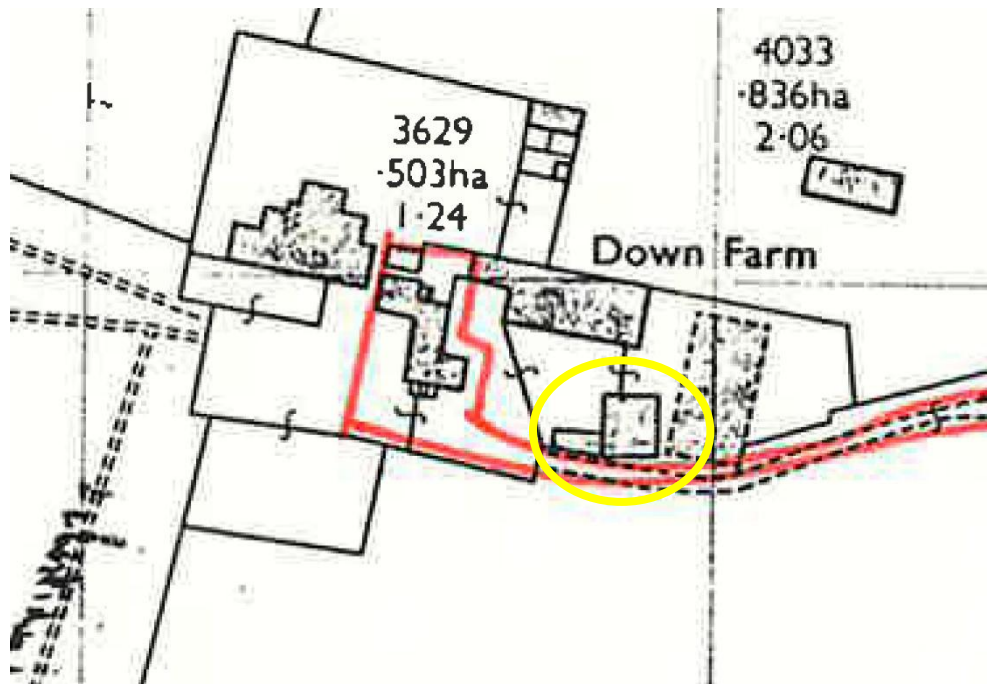
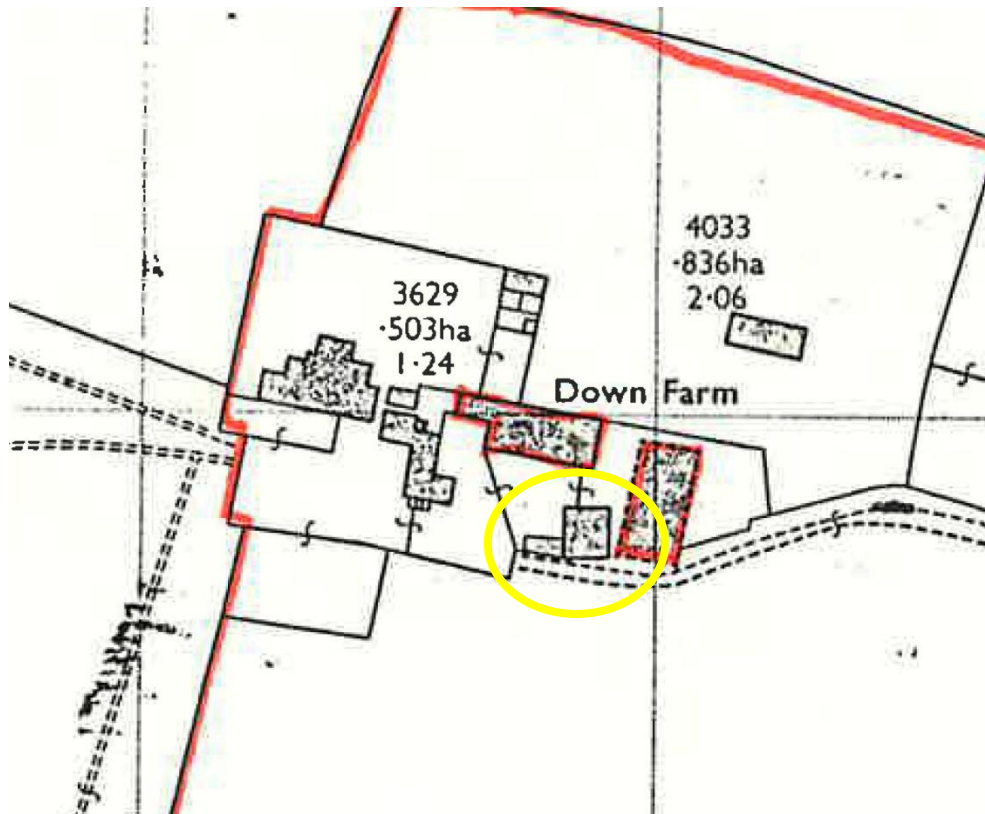
3.1 The Cottage has no formal planning history. It was converted into a dwelling from a former agricultural building during the late 1990s. From January 2005 the building was complete and capable of independent residential occupation and has been used as a separate dwellinghouse ever since. It now comprises a detached three-bedroom dwelling with sitting room, kitchen and dining room on the ground floor.

3.2 Provided below are the site plans from planning applications

N/88/03462/FUL Farm Buildings Down Farm The Pry PURTON conversion of one redundant farm building and erection of a new building for cabinet making business

N/91/01285/FUL Down Farm (The Old Barn) The Pry Purton PURTON to convert the existing barn to a three bedroomed dwelling

3.3 Although not part of these applications, the original agricultural building that is now the Cottage can be clearly seen by its L shaped footprint.



4.0 THE PROPOSALS

- 4.1 This application seeks a Certificate of Lawfulness for the following: -

Certificate of Lawfulness comprising the conversion of a former agricultural building into a self-contained dwellinghouse (Use Class C3), and its existing use as a self-contained dwellinghouse, together with the associated residential curtilage.

- 4.2 The property began to be used as a separate dwelling in the early 2000s, with the first registered date of Council Tax payments being 15th January 2005. For the purposes of this application, this date is taken as the date for completion of the conversion works and the commencement of the residential use.

5.0 THE LEGAL BACKGROUND

5.1 This application is made pursuant to Section 191 of the Town and Country Planning Act 1990. This enables a person to apply for a Certificate of Lawful Existing Use or Development to establish if an existing development is lawful. It states: -

(2) That 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 use (whether because they did not involve development or require planning permission or because the time for enforcement action had expired or for any other reason) and

b. They do not constitute a contravention of any other requirements of any enforcement notice then in force

5.2 In the case of 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, Section 171B (1) states that no enforcement action may be taken after the end of the period of ten years. In cases where building works or activity began before 25 April 2024 (where there was a change in the legislation) the period is as it was originally, which is four years.

5.3 Under Section 171 B (2)(2), in the case of 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 ten years beginning with the date of the breach. In cases where the use began before 25 April 2024 (where there was a change in the legislation) the period is as it was originally, which is four years.

5.4 In the case of any other breach of planning control s171B (3) states that no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

5.5 In this case, the relevant time-period for this application is considered to be four years. This is because the works to convert the Cottage took place more

than four years ago and were completed before 24 April 2024, Additionally the change of use to a dwelling also took place more than four years ago and this also occurred before 24 April 2024.

- 5.6 The onus of proof in applications of this type rests with the applicant and the relevant test will be 'on the balance of probability'. A local planning authority should not refuse a certificate because the application has failed to discharge the stricter, criminal burden of proof, namely 'beyond all reasonable doubt'. The applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted and if the LPA have no evidence of its own, or 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, again on the balance of probability.
- 5.7 Similarly, the National Planning Policy Guidance advises that the onus of proof in an application is on the Applicant and that the Courts have held that the relevant test in the evidence on such matters is on the balance of probabilities and that if the Council have no evidence of their own, or 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 that the Applicant's evidence is sufficiently precise and unambiguous to justify the grant of a Certificate on the balance of probability.

6.0 CASE FOR THE CERTIFICATE

- 6.1 In terms of the operational works to convert the building into a dwelling, Mr Cremin has confirmed in his Statutory Declaration that the work was completed by 2005. Indeed, this is supported by the fact that by 2005 the property was registered for Council Tax.
- 6.2 Further independent evidence of the operational development is provided by the 2017 Phase II Contamination Report prepared by Integrale Ltd in connection with the proposed conversion of the adjacent storage building. For the avoidance of doubt, the application property is The Cottage, outlined in red on the plan at Exhibit 2, and corresponds with the building identified in the contamination report as "Cottage A". The report's site plan and site description identify Cottage A as an existing barn conversion, whilst the photographs at Figures 18 and 19 (Appendix B) clearly show The Cottage in its completed form as an established residential dwelling. This provides contemporaneous documentary evidence that the conversion had been completed prior to the preparation of the report in 2017.



Figure 18: Fuel tank for adjacent property to the west.

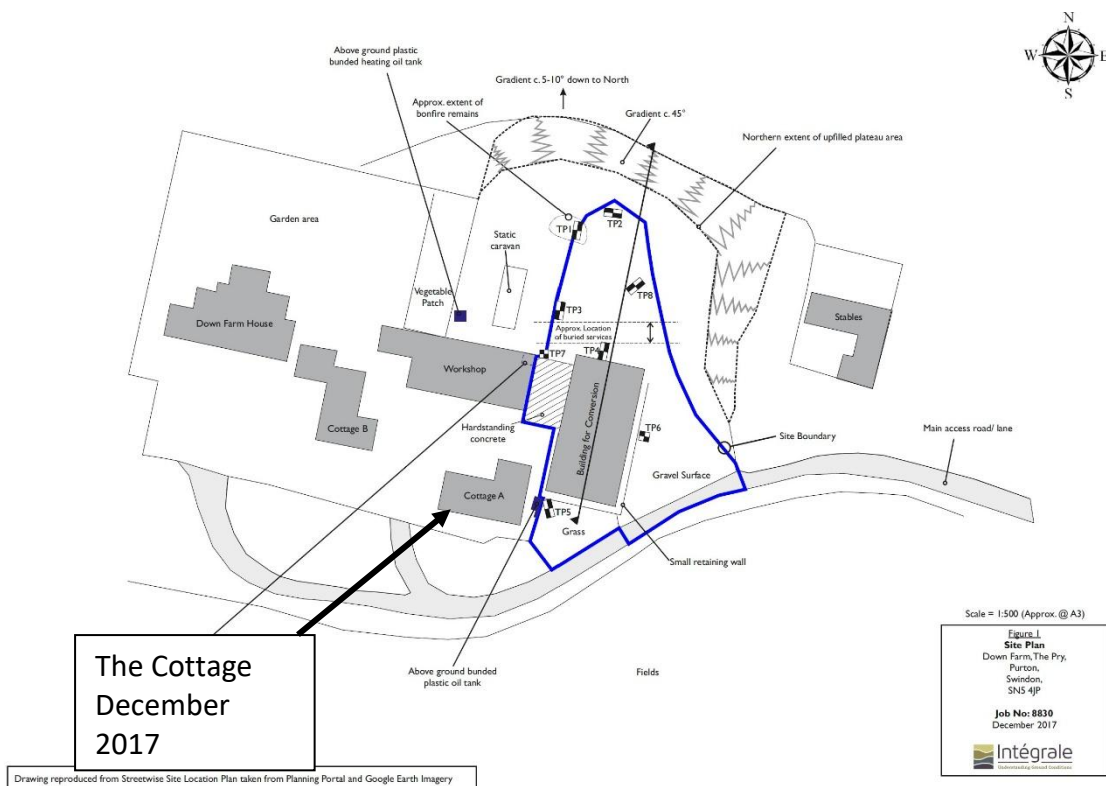
Source: Residential Conversion, Down Farm, The Pry, Purton, Swindon, Wiltshire, SN5 4JP (Report No. 8830, December 2017)



The Cottage
December
2017

Figure 19: Converted barns to west of site.

Source: Residential Conversion, Down Farm, The Pry, Purton, Swindon, Wiltshire, SN5 4JP (Report No. 8830, December 2017)



Source: Residential Conversion, Down Farm, The Pry, Purton, Swindon, Wiltshire, SN5 4JP (Report No. 8830, December 2017)

- 6.3 This evidence is reinforced by the enclosed Google Earth Historic Imagery, which provides a chronological aerial record of the site from 2002 onwards. The imagery demonstrates that The Cottage had been physically completed and remained in the same built form from at least September 2005, with subsequent images from 2006, 2009, 2012, 2014, 2017 and later years consistently showing the completed dwelling. Taken together, the contamination report, historic aerial imagery and Mr Cremin's Statutory Declaration provide a clear and mutually reinforcing body of evidence that, on the balance of probability, the operational works to convert the former agricultural building had been completed by January 2005.
- 6.2 In terms of establishing the lawful use of this property this statutory declaration from Mr Cremin. This confirms that he moved into Down Farm in 1988, and their son was born in 2001. From 2005 The Cottage began to be used as a separate dwelling – it established its own postal address and was registered by the Council for Council Tax purposes. The property has been liable for Council Tax continuously since 15th January 2005 which now spans a period of over 20 years.
- 6.2 During this twenty-year+ period the property has been fully furnished and let to several family members, friends and other private individuals. From January 2010 until October 2015 the Cottage was rented to the Applicant's brother and his wife (Ron and Jane Cremin). Then from 2016 to 2018 the property was privately let out on a shorthold tenancy agreement to Lee Buchanan and Gaye Green. From then on, the Cottage has been let out privately to several individuals including from July 2019 until January 2026 to Mr and Mrs Holgate.
- 6.3 There have been periods where the Cottage has been vacant, but this has only been for limited periods whilst new tenants have been sought. During these periods there has been no cessation or abandonment of the principal residential use, and the Cottage has remained fully functional as a dwelling and fully furnished. At no point were the residential facilities removed or was the building used for any alternative purpose.

- 6.4 The starting point in this case therefore draws on the findings of *Panton and Farmer v Secretary of State for the Environment Transport and the Regions and Vale of White Horse District Council* [1991] JPG 461. It is a misunderstanding that as far as the evidence to support a Certificate of Lawfulness as existing, and pursuant to section 191 of the above Act, it must demonstrate on the balance of probability that a use has been continuous for the immunity period running up to the date of the application. That is not the case as the Act states that the required evidence must more specifically demonstrate that the use is lawful at the time the Certificate application is made.
- 6.5 The *Panton* case rules that lawful use rights can only be lost by evidence of abandonment; by the formation of a new planning unit; or by being superseded by a further change of use. Thus, it is commonly understood, a use which is dormant or inactive could still be 'existing', so long as it began more than 10 years ago and has not been extinguished in one of these ways. In the present case, the Applicant does not contend that the use was ever dormant other than during short intervals between occupiers or whilst maintenance works were undertaken. Those temporary periods did not amount to abandonment of the established residential use.
- 6.6 These principles were upheld by the more recent case of *Thurrock Borough Council v Secretary of State for the Environment, Transport and the Regions and Hilding* [2001] JPL 1388. This related to the use of land for the taking off and landing of aircraft.
- 6.7 The established principles are therefore that an accrued planning right can only be lost in one of three ways; by operation of law. First, by abandonment, secondly by the formation of a new planning unit, and, thirdly by way of a material change of use.
- 6.8 It is strongly maintained that the use of the premises in question as a separate dwelling has not been abandoned as there is no suggestion its use has ceased over the past twenty years and the single planning unit is unchanged. There were only a small number of short temporary vacancies between occupiers or whilst refurbishment works were undertaken. During those

periods the Cottage remained fully furnished, retained all domestic facilities, continued to be assessed for Council Tax, retained its postal address and remained available for immediate residential occupation. None of these temporary interruptions amount to abandonment of the lawful residential use.

- 6.9 Enclosed are the Land Registry details for Down Farm, The Pry, Purton, Title Number WT264533. This confirms the ownership of the Cottage as Mr Cremin who purchased the land in 1988.
- 6.10 Please find enclosed an email from the daughter of Ron and Jane Cremin, confirming that they lived in the Cottage from 2010 until 2015.
- 6.11 Enclosed is email confirmation from Wiltshire Council of the first date on which the Cottage was registered for Council Tax as a dwelling – which was 15th January 2005.
- 6.12 Enclosed is an email screenshot from Wiltshire Council confirming to the Applicant Mr Cremin the periods when he was the liable party for Council Tax at the Cottage.
- 6.13 Enclosed is an email from The Post Office confirming the date when The Cottage had a registered postal address (it was previously registered as the Old Cottage).
- 6.14 Enclosed is a letter and invoice from Leaders Letting Agent dated 14th November 2015 regarding their instruction to let the property.
- 6.15 Enclosed is a home insurance document from January 2016.
- 6.16 Enclosed are utility bills from British Gas from 2015 – 2018.
- 6.17 Enclosed is a Council Tax Bill from 2018 – 2019
- 6.18 Enclosed is a tenancy schedule and supplemental agreement between the Applicant and Lee Jason Buchanan and Gaye Fiona Green for the periods 06/02/16 – 05/02/17 and then extended until 04/02/18.
- 6.19 Enclosed are historic satellite photographs from the history section of Google Earth for the following dates: 1 January 2002; 21 October 2003; 12 September 2005; 1 January 2006; 24 March 2009; 28 May 2012; 15 April

2014; 18 April 2017; 7 December 2018; 18 September 2019; 20 September 2019; 20 April 2021; 20 June 2022; 9 September 2023.

- 6.20 In light of the above evidence, the essential question raised by this application is simply whether the dwelling created, providing independent residential accommodation, has been so used for in excess of 4 years. This requires a simple assessment of law to be made and determined; there is no place within that for an assessment of the change against policy or whether the use is acceptable or not. The only issue in this instance is therefore whether the time available to your Council to take enforcement action to cease the property's occupation has expired.
- 6.21 It is of course acknowledged that the onus of proof in this regard rests with the applicant. There is a duty though to grant the certificate, modifying the application, if necessary, based on the specific lawful position shown. A Council should not resist the application unless they have contradictory information available or if the submitted evidence is not sufficiently clear and unambiguous to support the case made.
- 6.22 It has been established that there are certain tests which a Certificate must address in determination. First, the test is on the balance of probability, and that test is satisfied if my client can show that it is more likely than not to be as they indicate. It is of course strongly maintained that the enclosed appendices reinforce the sworn evidence so that on the balance of probability there is no doubt about the building's established use.
- 6.23 Taken as a whole therefore, the evidence submitted with this application demonstrates a clear and consistent pattern of residential occupation extending back to at least January 2005. The evidence comprises statutory declarations, Council Tax records, utility accounts, insurance documents, tenancy records, Land Registry documents, correspondence with Royal Mail and Wiltshire Council together with independent witness evidence confirming periods of occupation.
- 6.24 Although there have been limited periods during which the Cottage was temporarily vacant between occupiers or whilst maintenance works were carried out, these periods are entirely consistent with the normal

management of a residential property. At no stage was the Cottage incapable of occupation, nor was there any intention to abandon its use as an independent dwelling.

- 6.25 Further contemporaneous evidence of the established residential use is provided by the enclosed historic letting and tenancy documentation covering the period from January 2005 to November 2008. This evidence is particularly significant as it dates from the period immediately following the first registration of The Cottage for Council Tax purposes on 15 January 2005 and provides direct documentary evidence that the property was being operated and occupied as a separately let dwelling. The tenancy agreement commencing on 22 January 2005 identifies Mr Frederick John Cremin as landlord and Pearl J. Glasco and Carvee Armstrong as tenants and expressly identifies the property being let as The Cottage, Down Farm, The Pry, Purton. The accompanying letting agent's statement records rent and a tenancy deposit received in respect of The Cottage. Further documentation records the continuation of the letting arrangements, including a further tenancy agreement in 2007 and correspondence concerning the conclusion of the tenancy in November 2008. This provides strong contemporaneous corroboration of the residential occupation identified in the Applicants' Statutory Declaration and demonstrates that the Cottage was being treated as an independent residential property from the outset of the period relied upon.
- 6.26 The importance of this evidence is that it is contemporaneous documentation generated in the ordinary course of the letting and management of the property, rather than evidence prepared retrospectively for the purposes of this application. It therefore provides an independent evidential strand supporting the Applicants' account of events. In particular, the letting documentation confirms that the Cottage was not merely capable of residential occupation, but was actually being occupied and operated as a separate dwelling, with tenants entering into formal tenancy arrangements and rent being received by the landlord. When considered alongside the Council Tax records, the Statutory Declaration, Electoral Register records, utility information and other documentary evidence, the historic tenancy

documentation provides a consistent and mutually reinforcing evidential trail demonstrating that the separate residential use was established by January 2005 and continued thereafter.

- 6.27 The historic letting evidence also provides particularly useful corroboration of the absence of any abandonment of the residential use. The documentation demonstrates a continuing landlord and tenant relationship over a number of years, rather than a single isolated period of occupation. The later correspondence concerning the return of the keys and repayment of rent paid in advance is also consistent with the conclusion that the property remained in residential use until the end of that tenancy, immediately before the subsequent occupation identified in the Statutory Declaration. The evidence therefore supports the wider chronology relied upon in this application and further demonstrates that any subsequent periods of vacancy were temporary intervals between residential occupiers, rather than a cessation or abandonment of the established C3 use. The Statutory Declaration similarly records that periods when the Cottage was empty arose whilst new tenants were being sought or maintenance/refurbishment was undertaken, and expressly confirms that the residential use was never abandoned.
- 6.28 Further independent corroborative evidence of the residential occupation of The Cottage is provided by the enclosed historic Electoral Register records covering the period 2000 to 2015. These records provide contemporaneous evidence of individuals being registered to vote at the address of The Cottage, Down Farm, and therefore provide additional support for the account of its use as a separate dwelling. In particular, Deral P. Lewington is recorded at “The Cottage, Down Farm” in the Electoral Registers for 2005, 2006, 2007 and 2008. This provides independent evidence of an individual being associated with and resident at the Cottage during the period shortly after the property was first separately assessed for Council Tax in January 2005.
- 6.29 The later Electoral Register records provide further corroboration of the occupation of the Cottage by the Cremin family. Ronald M. Cremin, Jane A. Cremin and their daughter Hanna V. Cremin are recorded at “The Cottage” in the later registers, with Ronald and Jane continuing to be recorded at the property in the 2014 and 2015 registers. This is consistent with the

Applicants' evidence that Ron and Jane Cremin, being the Applicant's brother and sister-in-law, occupied the Cottage from approximately 2010 until October 2015. The Electoral Register evidence therefore provides a further independent and contemporaneous strand of evidence supporting the continuous residential use of the Cottage and, when considered alongside the Council Tax records, utility records, tenancy documentation, statutory declaration and other evidence submitted, reinforces the conclusion that the property was established and functioning as a separate dwelling throughout the relevant period.

- 6.30 The evidence demonstrates that throughout the relevant period the Cottage retained all the characteristics of a self-contained dwelling, including its own postal address, Council Tax assessment, domestic services, independent accommodation and residential curtilage. The use has therefore remained the same planning use throughout.
- 6.31 The evidence should not be viewed as individual isolated documents but as a substantial body of mutually reinforcing evidence extending over more than twenty years. Collectively the documents demonstrate, on the balance of probability, continuous residential use substantially exceeding the statutory immunity period.
- 6.32 The Council is therefore asked to determine this application solely on the factual evidence before it. The planning merits of the original conversion are not relevant. The only question is whether the use has become lawful through the passage of time. It is respectfully submitted that the evidence clearly demonstrates that it has.

7.0 CONCLUSION

- 7.1 The evidence submitted with this application demonstrates, on the balance of probability, that The Cottage has existed and functioned as an independent self-contained dwelling since at least January 2005 from previously being an agricultural building. Throughout that period it has had its own postal address, Council Tax assessment, domestic services and has been occupied by a succession of tenants and family members.
- 7.2 Whilst there have been limited intervals between occupiers, these were temporary periods associated with normal letting arrangements or maintenance works and did not amount to abandonment of the residential use. The planning unit has remained unchanged, and the use has never been superseded by any alternative use.
- 7.3 The extensive documentary evidence submitted alongside the Applicants' Statutory Declaration provides a consistent and compelling account of the Cottage's long-established residential occupation. There is no evidence to contradict that account and, applying the civil standard of proof, it is more probable than not that the use has continued for well in excess of the statutory immunity period.
- 7.4 Accordingly, the requirements of Sections 171B and 191 of the Town and Country Planning Act 1990 are satisfied, and it is maintained that the Council should grant a Certificate of Lawful Existing Use or Development confirming the lawful use of The Cottage as a separate dwellinghouse (Use Class C3), together with its associated residential curtilage.