



**SIX ACRE FARM, STANE STREET, ADVERSANE,
BILLINGSHURST RH14 9JR**

CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE

SUPPORTING STATEMENT FOR:

**The Lawful Use as an unfettered dwelling
(Use Class C3)**



REF: NJA/25/125

April 2025

<u>CONTENTS</u>	<u>PAGE(S)</u>
1.0 INTRODUCTION	4
2.0 SITE DESCRIPTION	6
3.0 PLANNING HISTORY	10
4.0 EVIDENCE	11
5.0 PLANNING LEGISLATION COMPLIANCE AND ASSESSMENT	13
6.0 CONCLUSION	15

APPENDICES

NJA-1 Copy of planning permission BL/5/85

NJA-2 Statutory Declaration of Mr and Mrs Bone

NJA-3 Tax return details for Mr and Mrs Bone showing their address at Six Acre Farm.

NJA-4 Gov.UK records of DES Bone Ltd, incorporated on 24 June 1996, with Mr and Mrs Bone being appointed Directors on that date. The Company was dissolved on 12 September 2023.

NJA-5 Proof of address

NJA-6 Screenshot of DES Bone website

NJA-7 Screenshot of article from DES Bone website reporting sale of company in 2022 to Cleankill

NJA-8 Copy of Mr Bone's training record

NJA-9 Illustrative pictures of work undertaken by DES Bone Ltd

NJA-10 Pictures of vehicles owned by DES Bone Ltd

NJA-11 Copies of pay slips for Mr and Mrs Bone 2017-2018

NJA-12 Copies of pay slips for Mr and Mrs Bone 2019-2021

NJA-13 Information from Mr and Mrs Bone

NJA-14 British Pest Control Association interview with Mrs Bone ([Meet the member: 25 years of pest control at Des Bone](#))

1.0 INTRODUCTION

1.1 This Certificate of Lawfulness application seeks to regularise the use of the dwelling at Six Acre Farm, as private residential dwellinghouse, unfettered by restrictive conditions (Use Class C3). This Statement and associated evidence demonstrate that dwelling has been lived in for the last 10 years without complying with Condition 2, imposed on the original planning permission (BL/5/85), concerning the occupation of the residence. Therefore, under the provision of Section 191 of the Town and Country Planning Act (TCPA) 1990 the use is now lawful and is exempt from enforcement action.

1.2 Section 191 of the TCPA 1990 states the following:

(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.

1.3 Section 171A of the Town & Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) is of relevance as it states:

'(1) For the purposes of this Act –

- (a) carrying out development without the required planning permission; or
- (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.'

2.0 SITE DESCRIPTION

- 2.1 Six Acre Farm is located on the eastern side of the A29 Stane Street, between the village of Adversane to the south and the town of Billingshurst to the north.
- 2.2 The application relates to a detached single storey bungalow set within a large plot of nearly an acre in size. The property includes outbuildings comprising a triple garage, a home office and workshop, a games room and an American barn.
- 2.3 Set out below are some photographs of the site which provide further context.



The bungalow – east and south elevations



West elevation and rear garden



North elevation and deck looking east



North elevation



North elevation and deck looking west



Barn and games room



Stables

3.0 PLANNING HISTORY

- 3.1 A search of Horsham District Council's on-line planning register has not revealed any planning applications related to this site. However, it is known that a planning application for the erection of a farm bungalow at Six Acre Farm was approved on 8 March 1985 under reference BL/5/85. A copy of the planning permission is attached at Appendix NJA-1.
- 3.2 Condition 2 of planning permission BL/5/85 states:

The occupation of the dwelling shall be limited to a person solely or mainly employed, or having ceased employment, last employed in the locality in agriculture as defined in Section 290 (1) of the Town and Country Planning Act 1971, or in forestry (including any dependents of such a person residing with him or her) or a widow or widower of such a person.

Reason: The site lies in an area where, in accordance with Structure Plan policy, development unrelated to the essential needs of agriculture or forestry would not normally be permitted.

- 3.3 Mr and Mrs Bone have provided evidence in the form of proof of address, proof of employment, and company details along with a Statutory Declaration which confirms that they purchased the property in October 1999, and have lived at the property since that time without complying with condition 2 of the planning permission. The Applicants ran their own business, DES Bone Ltd, which provided pest control services, until the company was sold in 2022, and the couple retired. They have therefore lived at the property for a period of over 10 years in breach of the aforementioned restrictive condition.

4.0 EVIDENCE

- 4.1 The evidence submitted with this Certificate of Lawfulness application comprises a Statutory Declaration from Mr and Mrs Bone (attached to this supporting statement at Appendix NJA-2), which provides some context to the other evidence being supplied (contained at Appendices NJA-3 – NJA-14). The Statutory Declaration confirms they first purchased the property in October 1999.
- 4.2 The evidence before the Council demonstrates that the bungalow at Six Acre Farm (as edged red on the accompanying OS site plan) has been occupied in breach of condition 2 for a period in excess of 10 years. The current owners of the site seek to regularise the current lawful use of the bungalow as an unfettered dwelling in Use Class C3.
- 4.3 In summary, the evidence is:

NJA-3: Tax return details for Mr and Mrs Bone showing their address at Six Acre Farm.

NJA-4: Gov.UK records of DES Bone Ltd, incorporated on 24 June 1996, with Mr and Mrs Bone being appointed Directors on that date. The Company was dissolved on 12 September 2023.

NJA-5: Letters from DWP to Mrs Bone dated 15 April 2013 and 16 March 2024, to her address at Six Acre Farm concerning her state pension. Copies of Mr Bone's driving licence for the period 25 May 2011 – present giving his address as Six Acre Farm.

NJA-6: Screenshot of DES Bone website ([Des Bone Pest Control | Pest Control Company](#))

NJA-7: Screenshot of article from DES Bone website reporting sale of company in 2022 to Cleankill ([Cleankill increases foothold in West Sussex | Des Bone Pest Control](#))

NJA-8: Copy of Mr Bone's training record

NJA-9: Illustrative pictures of work undertaken by DES Bone Ltd

NJA-10: Pictures of vehicles owned by DES Bone Ltd

NJA-11: Copies of pay slips for Mr and Mrs Bone 2017-2018

NJA-12: Copies of pay slips for Mr and Mrs Bone 2019-2021

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NJA-14: British Pest Control Association interview with Mrs Bone ([Meet the member: 25 years of pest control at Des Bone](#))

5.0 PLANNING LEGISLATION AND COMPLIANCE ASSESSMENT

- 5.1 Lawful Development Certificates are based upon sections 191-193 of the Town and Country Planning Act 1990. Section 191 allows a Local Planning Authority to grant a certificate confirming that an existing use is lawful.
- 5.2 Section 191 (2) states that for the purposes of the Act, uses and operations are lawful at any time if '*no enforcement action may then be taken in respect of them (whether because they did not involve development or planning permission or because the time for taking enforcement action has expired or for any other reason*'.
- 5.3 Section 171B of the 1990 Act specifies time limits for taking enforcement action. If action is not taken within certain time limits the breach of planning control becomes "immune" from planning enforcement action. Under section 171B (2) of the Town and Country Planning Act 1990, as amended, a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, becomes immune "*after the end of the period of four years beginning with the date of the breach*". The onus is therefore on the Applicants to demonstrate that the property has been occupied in breach of condition 2 of the original planning permission (BL/5/85) for a period in excess of 10 years.
- 5.4 The Courts have held that the relevant test of evidence submitted with Certificate of Lawfulness application is '*the balance of probability*', therefore Applicants are not required to discharge the stricter, criminal burden of proof namely 'beyond reasonable doubt'. The Courts have also held (see FW Gabbitas v SSE and Newham LBC 1985) that the Applicant's own evidence does not need to be corroborated by other evidence in order to be accepted. Accordingly, the Statutory Declaration and other documents forming part of this application must be accepted as credible and accurate evidence.
- 5.5 Therefore if the Local Planning Authority has no evidence of its own, or from others to contradict or otherwise make the Applicants' version of

events less probable, there is no good reason to refuse to issue a Certificate of Lawfulness. This is provided that the Applicants' evidence alone is sufficiently precise and unambiguous to justify the grant of a Certificate '*on the balance of probability*'. Furthermore, the planning merits of the operation, use or activity are not relevant to the purely legal issues which are involved in determining a Certificate of Lawfulness application.

- 5.6 Further guidance is set out in paragraph 003 Reference ID: 17c- 003-20140306 of the online Planning Practice Guidance (PPG). This notes that lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or for which planning permission is not required. The Guidance notes at paragraph 006 Reference ID: 17c-006-20140306 that the Applicant is responsible for providing sufficient information to support an application. The evidence must be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. Paragraph ID17c-008- 20140306 of the PPG makes clear that the planning merits are irrelevant.
- 5.7 The documents provided in support of this application (attached at appendices NJA-2-14) confirm that the property has been lived in by the Applicants for a period in excess of 10 years, during which time they have derived their income from sources other than agriculture.
- 5.8 Given the Applicants' own statements in the Statutory Declaration, which is corroborated by the associated evidence, it is clearly proven beyond the '*balance of probabilities*' that the couple have lived in breach of the agricultural occupation condition for a period in excess of 10 years, and that the use of the bungalow at Six Acre Farm as an unfettered dwellinghouse (Use Class C3) is now lawful. Therefore, as stipulated by Section 191 (2), no enforcement action may be taken because the time for taking such action has expired.

6.0 CONCLUSION

- 6.1 In summary, the use of the bungalow at Six Acre Farm as an unfettered residential dwelling (Use Class C3) for a period greater than 10 years has been demonstrated and is lawful. These lawful rights accrued after 10 years in at least 2009, based on the submitted supporting information. The use continues up to and including the date of this application.
- 6.2 Accordingly, the Certificate applied for should be granted for the unfettered residential use of the property.