



**Application for a Lawful Development
Certificate (existing use and development)**

**Use of barn as a garage and for domestic
storage in association with the occupation
of 24 Stringer House Lane, Emley, HD8
9SU**

March 2019

1. Introduction

- 1.1 This application is submitted on behalf of Mrs Allyson Makin and Mr Alistair Longbottom ("the Applicant") who reside at 24 Stringer House Lane, Emley, HD8 9SU ("the Property"). The Applicant is seeking the grant of a Lawful Development Certificate under section 191 Town and Country Planning Act 1990 in respect of the use of the barn shown outlined red on the plan annexed to this statement at Appendix 1 ("the Barn") as a garage and for domestic storage in association with the residential use of 24 Stringer House Lane, Emley.
- 1.2 The Property with the Barn were purchased by the Applicant in 2003.
- 1.3 The Property at the time of purchase comprised two cottages and an outbuilding (the Barn) which had previously been used by the previous owners for the keeping of their horses. There was also a ménage.
- 1.4 The Property is set within half an acre of domestic gardens and there are then six and half acres of agricultural land which is farmed by a local farmer.
- 1.5 The Property was purchased as a family home.
- 1.6 As the Property did not have a garage and the Applicants do not have any horses they immediately started to use the Barn as a garage for their cars and for storage in association with the domestic occupation of the Property. At the same time the Applicants removed the ménage and created a lawned area.
- 1.7 The Applicants use the Barn to store various items such as their barbeque, household items such as Christmas decorations, lawnmower, pool table, toys etc. The Barn is also used to provide secure parking for the Applicants cars.
- 1.8 The Barn has therefore been continuously used in association with the domestic occupation of the Property for storage and garaging since 2003 and continues to be used as such to date.

2. The Statutory Context

- 2.1 An application for a Certificate of Lawfulness, Existing Use or Development is made pursuant to section 191 Town and Country Planning Act 1990 ("1990 Act"). Section 191 provides that a person may make an application to ascertain whether:

"(a) any existing use of building or other land is lawful;

- (b) *any operations which have been carried out in, on, over or under land are lawful..”*

2.2 Section 191(2) of the 1990 Act confirms 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 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.”*

2.3 The time limits for taking enforcement action are set out in s171B Town and Country Planning Act 1990. The time limits are:

- (1) 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, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) 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 four years beginning with the date of the breach.
- (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.

2.4 The use of the Barn in association with the residential occupation of the Property as a garage and for domestic storage has been taking place for in excess of 10 years.

- 2.5 The Planning Practice Guidance (last updated 6 March 2014) sets out the process for obtaining a Lawful Development Certificate. The Planning Practice Guidance provides:

“...In the case of applications for existing use, if a 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, 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 on the balance of probabilities.”

3. Evidence submitted in support of the application

- 3.1 The burden of proof for evidence therefore rests with the Applicant and evidence is submitted with this application which is precise and unambiguous. An overview of the evidence is provided below:

- Statutory declaration by Mrs Allyson Makin (including photos of the Barn in use);
- Statutory declaration by Mr Alistair Longbottom;
- Statutory declaration by Mr Jeremy Raby;
- Statutory declaration by Mr Andrew Parker;
- Statutory declaration by Mr Ben Pattison; and
- Statutory declaration by Mrs Jane Smeaton.

4. Conclusion

- 4.1 As outlined above the relevant test of evidence submitted in support of a Certificate of Lawfulness is whether, on the balance of probabilities, the use or development is a lawful one.
- 4.2 As set out above the Barn has been used for domestic storage and garaging in association with the Applicants residential occupation of the Property since 2003.
- 4.3 Based on the contents of this statement and the evidence appended to it, the lawfulness of the existing use of the Barn for domestic use in association with the Property is concluded to be proven.
- 4.4 We therefore respectfully request that a Certificate of Lawfulness is issued for the Barn as a domestic garage and storage building used in association with the residential occupation of the Property.

March 2019

