

Salterns Quay, Marine Walk, Hayling Island

**Statement and Evidence in Support of
Certificate of Lawful Existing Use
Application**

Mr and Mrs Lewis

September 2024

KF Planning Consultancy

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1. Introduction

- 1.1 The applicant is applying under Section 191 of the Town and County Planning Act 1990 (as amended under Section 10 of the Planning and Compensation Act 1991 and the Town and Country Planning (Development Management Procedure) 2015) for a Certificate of Existing Lawful Use of the existing 'Barn' building as ancillary residential annex / accommodation to Salterns Quay.
- 1.2 This statement sets out the context to the application and appends evidence of the continuous use of the building for over 10 years.
- 1.3 This submission comprises a range of sources of evidence submitted which show that the required assessment of the balance of probabilities for the lawful use has been exceeded.

2. Background and Context to Application

- 2.1 The applicants Mr and Mrs Lewis purchased the property 'Salterns Quay' in May 2006 for themselves and their 4 children. Site Location Plan 1000 submitted with this application shows the extent of the property ownership.
- 2.2 They had already been involved in sailing in the area and have lived in the property since and are very much involved in the local community and local sailing club. Mrs Lewis ran the Mengeham Rythe Sailing Club (MRSC) Junior Sailing Week between 2006 and 2017, was Commodore of the club between 2017 and 2021 and remains Vice President.
- 2.3 On 24 March 2010 Mr and Mrs Lewis applied for planning permission for a part single storey, part two storey outbuilding, swimming pool and tennis court (LPA Ref: 10/68365/003). The application was approved on 22 June 2010 and the family began working with Nick Jones (Project Manager) in sourcing materials and contractors and planned to proceed with the implementation of the entire consent.
- 2.4 The barn building subject to this application as shown shaded blue on Site Location Plan 1000.
- 2.5 On 7 February 2011 an application was submitted for non-material changes to the approved building including fenestration, external door sizes and positions and changes to the barn gable at the south east elevation (LPA Ref: APP/11/00127). These were approved on 7 March 2011.
- 2.6 Conditions were cleared under permission APP/11/00132 on 15 April 2011 and the permission was implemented on 19 April 2011 through the start of the construction of the building.
- 2.7 The building was then completed fully in accordance with the approved site plan (Plan 8009-01) and elevations as amended (Plan 1047-402H).
- 2.8 As construction was due to commence there was a change in family circumstances.
- 2.9 In 2011 the applicant's mother [REDACTED]
[REDACTED]
[REDACTED] The applicant sought to find a suitable property for their parents to relocate to nearby in Hayling Island but were not successful.
- 2.10 With circumstances and medical needs pressing, it was decided that the tennis court and pool be put on hold and the outbuilding (by which the build up to implementation was progressing) be modified in terms of its internal layout to provide comfortable annex accommodation close to the house and to enable the applicants to care for their mother and father. Part of the ground

floor was turned into an additional bedroom in 2018 to avoid the need to use the stairs and to enable easy access to and from the building for required medical appointments and treatments.

- 2.11 Whilst the accommodation had been provided primarily due to the circumstances of [REDACTED]

[REDACTED] In 2021 a close family friend from the local area who needed support moved into the barn to help support [REDACTED] in addition to shopping and house maintenance tasks.

- 2.12 Alongside this annex like use, the building has been used throughout this period to accommodate visiting family and friends of the applicants and [REDACTED] adding further to its ancillary residential use linked to the main dwelling. This continues to the present day as detailed, for example, in the submitted letters. The close family friend [REDACTED] and has continued to use one bedroom and a bathroom in the barn [REDACTED]

[REDACTED] This remains fully ancillary and the applicants continue to pay all the bills for the barn and the remaining barn continues to be used by family and friends as it has since 2012 and as confirmed in the submitted evidence.

- 2.13 Due to the change in circumstances the approved pool and tennis court were not implemented but remain extant under implemented permission 10/68365/003.

- 2.14 Given the pressures at the time and as the use of the building would be wholly related to the use of Salterns Quay by family and friends (and no separate residential unit was being created), the applicant did not realise that any further consent would be required for this ancillary residential use.

- 2.15 Condition 3 of planning permission 10/68365/003 states:

“The outbuilding hereby permitted shall be used only for purposes incidental to the enjoyment of the dwelling house as such and shall not be used as a separate unit of accommodation, or for any business, commercial or industrial purposes whatsoever”

- 2.16 It is our view that the wording of Condition 3 does not preclude the use of the building for ancillary residential accommodation, and we sought to confirm this with the planning department through a pre-app submission earlier this year (LPA Ref: GEN/24/00717).

- 2.17 However, the pre-app response advised that the reference in the condition to ‘incidental’ use would preclude ancillary residential accommodation. This is contested because it is considered that the purpose of the condition was to

preclude the establishment of separate dwelling unit independent of Salterns Quay.

- 2.18 However, in order to provide certainty and fully regularise the planning position, this application for a Certificate of Existing Lawful Use of the building as ancillary residential accommodation / granny annex related to Salterns Quay, contrary to Condition 3, has been submitted.

3. Schedule of Evidence

Appendix	Date	Description
1	31/05/2006	Title Deed Confirmation
2	28/03/2011	Surrey Barns Construction contract document showing amended internal layout for ancillary residential accommodation following change in circumstances
3	19/04/2011	Date stamped Photograph of commencement of works on the new barn building by Surrey Oak Barns.
4	01/06/2011	Date stamped Photograph during barn construction
5	03/06/2011	Building Control approval and sign off including reference to ancillary accommodation
6	24/09/2011	Date stamped photograph showing kitchen installation to barn
7	13/01/2012	Date stamped Photograph of [REDACTED] as applicants' parents move into the barn and the ancillary residential use begins
8	13/06/2013	Invoice for additional electrics in ancillary barn building
9	17/07/2013	Date stamped photograph of family on barn deck
10	07/09/2015	SAP Calculations document for barn - residential
11	24/12/2016	Date stamped photograph of [REDACTED] at the front door of the barn
12	05/02/2017	Correspondence from Valuation Agency confirming 'Barn' to be treated as separate unit for the purpose of council tax
13	28/06/2017	SSE Utilities bill link to Salterns – not separate
14	14/03/2019	Council Tax exemption notice – as building is a Granny Annexe
15	21/10/2020	Date stamped photograph of [REDACTED] in the barn kitchen
16	12/03/2021	Council Tax exemption notice – as building is a Granny Annexe
17	24/03/2021	SSE Utilities bill link to Salterns – not separate

18	15/03/2022	Council Tax exemption notice – as building is a Granny Annexe
19	15/07/2023	Portsmouth Water Bill – covers house and ancillary building
20	05/09/2024	Letter from [REDACTED] confirming their association with the family and visits to the barn for the period January 2012 to the present day
21	09/09/2024	Letter from [REDACTED] confirming their association with the family and visits to the barn for the period January 2012 to the present day
22	09/09/2024	Letter from [REDACTED] (Project Manager for building works) confirming his involvement in the construction, its adaption to ancillary residential accommodation and subsequent visits for maintenance and that the property has always been used as ancillary residential accommodation
23	10/09/2024	Letter from [REDACTED] confirming his mother and fathers use of the barn building as ancillary accommodation since 2012 and visits to and use of the ancillary accommodation in the property to the present date.

4. Assessment of Evidence

- 4.1 The submitted evidence confirms that the building has been used as ancillary residential accommodation since 13 January 2012 to the present day, hence for a total of over 12 years.
- 4.2 A range of sources of evidence have been provided to show that the use has been continuous and that the building continues to be used as ancillary accommodation for visiting family and friends at the time of the submission of this application.
- 4.3 Documents confirm that the building structure was implemented in accordance with the approved plans.
- 4.4 Evidence has been provided from the Project Manager who managed the initial build and fit out and has undertaken maintenance on the building since. He confirms the long term use of the barn as ancillary residential accommodation.
- 4.5 Letters have also been provided by friends of Mr and Mrs Lewis and [REDACTED] [REDACTED] who have visited and stayed in the ancillary residential accommodation in the barn since 2012 up to the present day.
- 4.6 Dated Photographs have been provided to show the fitting out of the building and its overall residential character including bedrooms, living room and kitchen in 2011/2012.
- 4.7 Photographs of the building as of September 2024 are shown below and can be cross referenced with the building being fitted out in late 2011 and early 2012 and show the continuity in the residential character and appearance of the building to the present day.



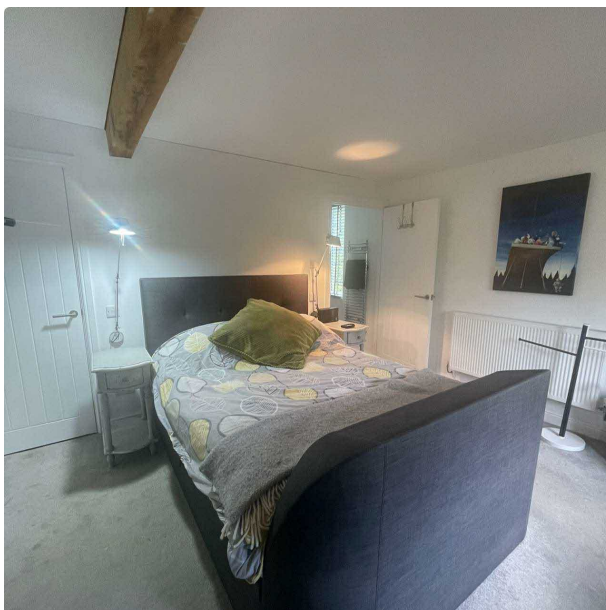
Ground Floor Living Area and Kitchen



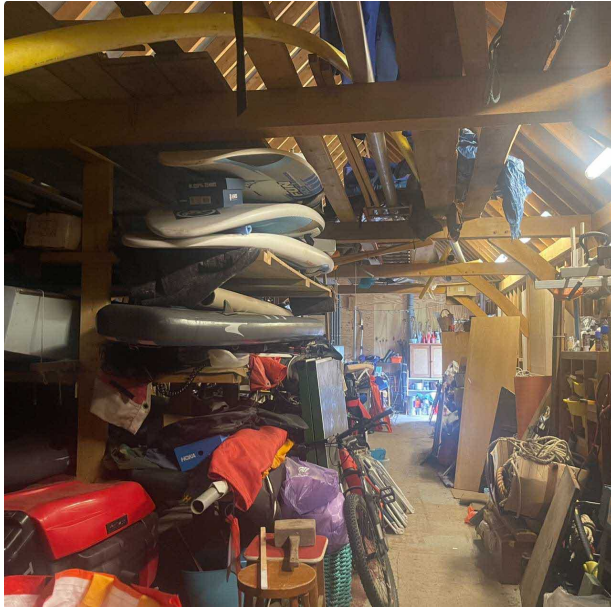
Upstairs Bedroom 1



Upstairs Bedroom 2



Downstairs Bedroom



Boatshed /Ancillary Storage

- 4.8 As confirmed by the project manager [REDACTED], the utilities and services for the barn building were designed and constructed to be shared and metered through the main house. The Utility bills (including energy and water) show that the services for the barn are included within the main household bill for Saltern Quay and are paid by Mr and Mrs Lewis and are not under any separate or independent provision.
- 4.9 The Council tax documents (following correspondence from the Valuation Agency in February 2017) show the use of the barn as ancillary residential accommodation / granny annex and an exemption was made on this basis.
- 4.10 Overall, the submitted evidence therefore shows continuous ancillary residential use of the building from 2012 to 2024.

5. Conclusion

- 5.1 It is considered that Condition 3 of permission 10/68365/003 allows for the use of the building subject to this application as ancillary residential accommodation associated with Salterns Quay.
- 5.2 However, the local planning authority have advised that it considers permission would have been required for this use due to the specific reference and restriction to 'incidental use' in Condition 3 of planning permission 10/68365/003 for the building. The applicants had not been aware that such an ancillary use to their own dwelling could require planning permission.
- 5.3 On this basis, and to regularise the planning position, this application for a Certificate of Lawful Existing Use has been submitted.
- 5.4 Extensive evidence (in terms of type and chronological coverage) has been submitted with this application is considered to show that the required assessment of the balance of probabilities for the lawful use has been met, and indeed exceeded.
- 5.5 It has been shown that the building structure was implemented in accordance with planning permissions 10/68365/003 and APP/11/00127 and is therefore lawful.
- 5.6 It has been shown that since January 2012, notwithstanding Condition 3, the barn has been used as ancillary residential accommodation in association with Salterns Quay and we trust the Certificate can be issued.