

**To: The Deputy Leader and Members of the  
Planning and Development Board**

**(Councillors Bell, L Dirveiks, Henney,  
Humphreys, Jarvis, Jenns, Jones, Lea, Morson,  
Moss, Phillips, Simpson, Smitten, Sweet and  
A Wright)**

**For the information of other Members of the Council**

This document can be made available in large print and electronic accessible formats if requested.

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For enquiries about specific reports please contact the officer named in the reports

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**30 SEPTEMBER 2015**

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Wednesday 30 September 2015 at 5.00pm.

### **AGENDA**

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**

**PART A – ITEMS FOR DISCUSSION AND DECISION  
(WHITE PAPERS)**

**4 Planning Applications – Report of the Head of Development Control.**

**Summary**

To consider and determine Planning Application No 2015/0307 – Lake House, Bakehouse Lane, Nether Whitacre (certificate of lawfulness application).

The Contact Officer for this report is Jeff Brown (719310).

JERRY HUTCHINSON  
Chief Executive

**Agenda Item No 4**

**Planning and Development Board**

**30 September 2015**

**Planning Application**

**Report of the Head of Development Control**

**1 Subject**

- 1.1 Town and Country Planning Act 1990 – application presented for determination.

**2 Purpose of Report**

- 2.1 The purpose of this report is to consider and determine Planning Application No 2015/0307 – Lake House, Bakehouse Lane, Nether Whitacre (certificate of lawfulness application) deferred from the meeting held on 7 September 2015.

**3 Implications**

- 3.1 Should there be any implications in respect of:

Finance; Crime and Disorder; Sustainability; Human Rights Act; or other relevant legislation, associated with a particular application then that issue will be covered either in the body of the report, or if raised at the meeting, in discussion.

**4 Site Visits**

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.

- 4.2 Members are reminded of the “Planning Protocol for Members and Officers dealing with Planning Matters”, in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

**5 Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is

also possible to view the papers on the Council's web site:  
[www.northwarks.gov.uk](http://www.northwarks.gov.uk).

- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 12 October 2015 at 6.30pm in the Council Chamber at the Council House.

## 6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at: [www.northwarks.gov.uk/downloads/file/4037/](http://www.northwarks.gov.uk/downloads/file/4037/).

- 6.2 If you wish to speak at a meeting of the Planning and Development Board, you may either:

- e-mail [democraticservices@northwarks.gov.uk](mailto:democraticservices@northwarks.gov.uk);
- telephone (01827) 719222; or
- write to the Democratic Services Section, The Council House, South Street, Atherstone, Warwickshire, CV9 1DE enclosing a completed form.

## Planning Applications – Index

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4	PAP/2015/0307	192	<b>Lake House, Bakehouse Lane, Nether Whitacre,</b> Certificate of lawfulness application for existing use as a dwelling house	General

**(1) Application No: PAP/2015/0307**

**Lake House, Bakehouse Lane, Nether Whitacre, B46 2EB**

**Certificate of lawfulness application for existing use as a dwelling house, for**

**Mr & Mrs Nicholas Horton**

### **Introduction**

Determination of this Certificate application was deferred at the last meeting in order to enable further time for Members to read all of the evidence that had been submitted in support and in rebuttal.

The matter is thus referred to this Special Meeting for determination

The previous report is attached at Appendix A and Members are reminded of the advice set out on the first page – page 4/192.

### **Recommendation**

That the Certificate be issued.

**(7) Application No: PAP/2015/0307**

**Lake House, Bakehouse Lane, Nether Whitacre, B46 2EB**

**Certificate of lawfulness application for existing use as a dwelling house, for**

**Mr & Mrs Nicholas Horton**

### **Introduction**

This item is referred to the Board at the discretion of the Head of Development Control in view of the interest expressed by local Members.

Members should be aware that this is **NOT** a planning application.

It is an application for a Certificate of Lawfulness for the use of an existing building as a dwelling. The applicant is claiming that the building has been used for this purpose continuously for the last four years and is thus lawful under planning legislation. If the Council agree, then the Certificate is granted. The test here for the Council is whether on the "balance of probability" the claim is true. If so, then the Certificate is issued. The applicant has submitted an amount of evidence to verify his claim. The Council has to consider this along with any other evidence that it might have – in this case rebuttal evidence from the local community.

The legal remit of the Council here therefore does NOT extend to assessing compliance with planning policy or to assess what impacts the use as a dwelling may give rise to.

Given this, the Solicitor to the Council has been consulted and he wishes to draw attention to the following three matters.

Firstly, because the determination here rests on an assessment of the evidence actually submitted, only those Members who have read all of the evidence submitted should be involved in the decision. This means the actual documents as submitted and not the summaries included in this report at the two Appendices.

Secondly he points out that the test in that assessment, is one of "on the balance of probability" and not that of "beyond reasonable doubt". It is a lesser test.

Thirdly because of the nature of the application, any comments or matters raised in the discussion on the case which refer to planning policy or to potential impacts arising from the grant of the Certificate will carry no weight and Members are thus requested to refrain from referring to planning policy matters.

Members can access all of the submitted evidence by visiting the planning pages of the Council's website and looking at the application under reference PAP/2015/0307.

### **The Site**

The application relates to land to the south-east of Whitacre Heath where there is a fishing lake which is accessed off Bakehouse Lane. The building concerned is located on the lake's western edge.

## **Background**

Planning permission was granted in 1998 to extend an existing fishing pool at this site. Originally this was an irrigation reservoir used by the then farmer but was then stocked as a fishing pool. A new owner sought to tidy the site and extend the lake so as to provide fifteen fishing pegs. These changes were approved as well to add a car park and a cabin to be used as a shelter and for the storage of fishing equipment. An alleged misuse of the shelter was investigated in 2004, but no permanent residential use was found.

There was a refusal for a new fishing lodge in 2003 and a subsequent appeal was dismissed in 2004.

In 2006 a retrospective planning permission was granted for an extended car park and pathways.

The current owner and applicant purchased the site in 2009. He sought advice from the Council in respect of a further lake extension to the south and a replacement cabin. In respect of the former, advice was given that there would be unlikely to be an objection in principle but intensification could have adverse impacts. In respect of a new cabin he was advised that any such replacement should be appropriate in the Green Belt as then defined by The Government's guidance in its PPG2. It had to be ancillary to a recreational use and essential for that use.

Further investigatory visits were made in early 2015 as it was alleged that building materials had been moved to the site. It was said in response that these were to repair existing paths and posts and fences. The owner confirmed that the present cabin was a replacement for the one on site when the site was acquired but that it was the same size. The Council's investigation concluded that a new building had been erected and that it appeared that a breach of planning control had thus occurred.

The applicant has elected to submit this Certificate application in order to remedy that breach.

## **The Applicant's Evidence**

### **a) Summary**

The applicant has submitted a covering statement which outlines his evidence.

It is said that the owner acquired the site in April 2009 and that the land benefits from the 1998 permission as a recreational fishing pool. This included a cabin/shelter, the details of which were subsequently approved later in 1998. The cabin's approved dimensions were 5.5 by 4.2 metres and 2.7 metres to its ridge. A cabin was placed on the site shortly afterwards.

He says that he acquired the site with a view to it being for his own private use and thus activity at the site reduced considerably. However the applicant says that the security of the site left a lot to be desired and that he had to spend a lot of time on site in the cabin as a consequence. This he says was larger than the approved dimensions – 8 by 7 and 3.6 metres tall. He commenced refurbishment of this shelter to form a residential dwelling which he says was completed at the end of July 2009. The refurbishment involved re-location closer to the lake. The refurbishment included a bathroom, kitchen, lounge and two bedrooms. Additionally a small storage shed was added and his caravan was parked here too. He says that he lives here on Wednesdays to Sundays and at his Sutton address on the other days. He says that he registered with his bank and HMRC in 2012 that this is his address. It is registered for address purposes – since 2013 – but not for Council Tax. This however has now commenced.

He forwards witness statements from tradesmen who did some of the refurbishment work. The applicant did work too. He agrees that the inside was “completely transformed”. He says that the works were completed in 2009. He says that he has not attempted to conceal this work – the physical setting of the site is not hidden; tradesmen and others have visited and he has formally set up the address. Witness Statements are included and dated relating to the installation of a land line; water, mains electricity and calor gas provision. Water was pumped from the lake and filtered. Several personal statements are included from people describing the use of the site.

He concludes by saying that his employment records, financial details, home insurance details and general postal correspondence is here. Utilities and TV Licensing are also registered here.

#### **b) The Detailed Evidence**

As indicated above a significant number of documents are attached to his application. Each has had to be considered and an assessment made as to how much weight can be attached to each. This is provided in full at Appendix A.

#### **Rebuttal Evidence**

Evidence has been submitted in rebuttal of the application from local residents and the Parish Council. This revolves around several matters. Residents who live nearby and those who regularly walk their dogs in the area close to the site or who own equestrian land along the access track say they have not witnessed any residential use; that delivery vehicles turn back and that the site gate is always locked

A record of this evidence is attached at Appendix B again highlighting the weight that can be given to each document.

## **The Applicant's Response**

The applicant was invited to comment on the rebuttal evidence set out in Appendix B.

The comments are as follows:

- The building as now on site was substantially completed in mid-2009. Mains services were added from 2011 onwards but prior to this there was an on-site generator.
- None of the rebuttal statements refer to any of the witnesses actually visiting the site itself; being inside the building or witnessing activity within it and around it.
- There is no opportunity to observe the applicant's home from the public footpaths
- The applicant's evidence must be treated as a whole. It comes from a variety of different sources. The rebuttal evidence is not based on any personal witness of activity on the site
- Delivery suggests that there is a site address. It is not inconsistent for applicant to be away on business.
- The extent of the refurbishment is to a scale equivalent to a residence not a shelter
- When the applicant is away he leaves at 0630 not returning to 2000 hours.

In respect of the utility bills schedule then the applicant says:

In respect of gas the applicant has provided evidence of use from 2009. That use would involve gas consumption. Moreover why would gas bottles for business use be delivered here?

In respect of the electricity position then invoices quite commonly relate to actuals and estimates for any household. The nature of the usage is agreed as being small but the applicant lives here alone; he is at work during the day, it is small building with only the TV, washing machine and lighting using electricity. Heating and cooking is from gas. When the electricity and gas invoices are added together they indicate regular and frequent use.

## **Comments from the Objectors**

The applicant responses to the rebuttal evidence have been passed to the objectors for further comment. Those responding repeat that they do not see anyone regularly on the site and that the utility schedule doesn't show evidence of full residential use over the four years.

## **Observations**

### **a) Introduction**

The Council has to review all of the evidence as submitted and then decide whether the building has been continuously used as a dwelling house over the past four years – that is from Spring 2011 to the present. Its assessment of the available evidence is on the basis of whether; "on the balance of probability" the applicant's claim can be supported. This is a lesser test than one of, "beyond reasonable doubt".

It is proposed to discuss this through a series of steps.

#### **b) The Building**

The first issue is that of the building itself. It is considered that the applicant has provided sufficient evidence to show that the building now on site has been there since probably mid-2009 and at that time, it was substantially complete. There is no evidence to suggest that since then it has been extended or altered materially. There is no rebuttal evidence to contradict this conclusion. It is thus considered that the building the subject of the application has been present continuously for the last four years.

#### **c) The Accommodation Provided**

The second issue is to look at the accommodation that the building provides. The applicant has submitted significant evidence from a variety of different sources and independent corroborative sources, apart from his own account, which strongly points to the conclusion that the building has been fitted out as a residential unit akin to a C3 Use under the Use Classes Order. This relates to the accommodation provided and to the services and utilities installed. The building is considered to be capable of full residential use, and it is agreed that this appears to have been the case for the last four years. It is agreed that services have been added at various times during that period, but that does not detract from the conclusion that even in 2011 the building was capable of full residential use. The use of a generator; calor gas cylinders and a water filtration system may not be conventional but they do enable that residential use to continue. There has been no rebuttal evidence submitted to counter this conclusion. On the balance of probability therefore it is agreed that the building has been capable of a C3 use throughout the relevant four years.

#### **d) The Use of the Building**

This is the key issue here and it perhaps neatly can be summarised as whether the occupancy has been occasional or permanent. The applicant's account of his occupancy is not conventional and is clearly related to his own personal circumstances. In this case there are several matters which, when taken together carry weight. Firstly weight is given to his own account as he has first-hand knowledge of the use. This is corroborated by his wife and several visitors to the site, both friends and people engaged to do work. Their evidence is indicative of residential use but not fully supportive as they only visit on occasions. However the numbers of statements and their descriptions are of weight. Additionally the evidence from professional organisations is of weight as they have to contact the applicant and have no "private" or "social" connection with him. The rebuttal evidence is of limited weight here for two reasons. It is not based on an actual presence on the site or experience of the use of the building. Secondly it is significant that the building too cannot be seen from the footpaths where people walk their dogs. Their evidence suggests some use which they assume to be "occasional". But if the applicant is here on his own for periods as he claims, then that is likely not to be noticed. Thirdly as indicated above, the building is considered to be capable of full C3 Use. That Use Class does not stipulate or define a mode of living – one person or a household, nor does it preclude a person residing at two addresses, both being C3 use, or a second house being used as a holiday or second home. It is worth noting at this point that dwellings occupied as second homes; as time share property or as holiday lets are all for planning purposes treated as being C3 residential uses. In all of these cases, the property can be left vacant for days or indeed for weeks. This would appear to be the case here where occupancy is not "conventional". The nature of that occupancy however is residential in character; the building itself is capable of independent residential use and the use made as described

in the evidence is considered to be materially different to that of a "shelter" - it suggests something more than a weekend "retreat" or a "leisure" plot. In all of these circumstances it is considered that on the balance of probability, the applicant has been able to verify his claim

**e) Legal Advice**

The issue with Certificate applications is to assess submitted evidence with no reference at all to planning policy matters. As a consequence Members should benefit from a legal assessment of the weight of the evidence submitted. The Council's Solicitor was therefore asked to review the case file and to come to a view based on the evidence submitted by both applicant and the local residents. His conclusion concurs with the above that on balance, it is more likely than not, that the applicant has resided and continues to reside to a sufficient extent to constitute a material change of use to that of a dwelling house.

**Recommendation**

That the Certificate be **GRANTED**

## BACKGROUND PAPERS

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2015/0307

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	19/5/15
2	D Starkey	Objection	2/6/15
3	Nether Whitacre Parish Council	Objection	4/6/15
4	Case Officer	E-mail	5/6/15
5	Case Officer	E-mail	8/6/15
6	S Dunbar	Objection	9/6/15
7	Mr & Mrs Young	Objection	8/6/15
8	B Wollaston	Objection	8/6/15
9	J Crawshaw	Objection	9/6/15
10	Mr & Mrs Young	Objection	9/6/15
11	D Starkey	Objection	10/6/15
12	Nether Whitacre Parish Council	E-mail	9/6/15
13	Case Officer	E-mail	9/6/15
14	Mrs Dunbar	Objection	9/6/15
15	Case Officer	E-mail	9/6/15
16	D Starkey	Objection	12/6/15
17	D and G Ross	Objection	13/6/15
18	M Clare	Objection	22/6/15
19	Case Officer	Letter	15/6/15
20	Applicant	E-mail	6/7/15
21	Mr & Mrs Taylor	Objection	24/6/15
22	Applicant	Letter	26/6/15
23	Mrs Dunbar	Objection	3/7/145
24	Applicant	E-mail	6/7/15
25	D Starkey	Letter	12/7/15
26	Nether Whitacre Parish Council	Letter	12/7/15
27	Mr & Mrs Young	E-mail	12/7/15
28	M Clare	E-mail	16/7/15
29	Mrs Dunbar	E-mail	17/7/15
30	Applicant	E-mail	20/7/15
31	Applicant	E-mail	28/7/15
32	Applicant	E-mail	30/7/15
33	Applicant	E-mail	30/7/15
34	Applicant	E-mail	30/7/15
35	Solicitor to the Council	Note	31/7/15
36	Applicant	E-mail	5/68/15
37	Case Officer	E-mail	14/8/15

38	Nether Whitacre Parish council	E-mail	17/8/15
39	Case Officer	E-mail	18/8/15
40	Applicant	E-mail	18/8/15
41	D Starkey	Letter	19/8/15
42	Applicant	E-mail	21/8/15

*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*

APPENDIX A

	Document	Content	Weight
1	Title Documents	Two title documents which suggest the applicant owns the whole of the application site.	Evidence of ownership
2	Planning permission Notice 123/98	Permission for an extended lake plus shelter.	Not relevant
3	Planning Notice dated 24/9/98	Consent for the design and size of the shelter – 5.5 by 4.2 by 2.7 metres	Not relevant
4	Location Plan		
5	NWBC Letter dated 11/12/15	This describes the site. It refers to a building of 8 by 7 and 3.6 metres high moved closer to the lake. An internal description refers to accommodation and services.	Supportive in respect of the accommodation present and the building.
6	Applicant's letter 19/2/15	<p>In early 2009 he moved the existing building on site and extended it. He added windows, cavity insulation, full electricity. Internally he provided a bathroom, kitchen, lounge and two bedrooms completed by early August 2009.</p> <p>He has lived here – Wednesdays to Sundays – since the summer of 2009.</p> <p>This does change – due to the weather and his commitments. He is at the site 3 or 4 times a week most weeks of the year.</p> <p>Registered with his Bank and HMRC in 2012 that this was his address when he thought this would be a long term situation.</p> <p>Registered the address with the Council in November 2013. Has commenced Council tax registration early 2015.</p> <p>Photographs showing internal accommodation.</p>	<p>Supportive as to works undertaken and when.</p> <p>Supportive</p> <p>Raises doubt about continuous use</p> <p>Not a full four years' worth of evidence</p> <p>As above</p> <p>Supportive as to dates</p>

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		Invoices added from Wheelers dated the summer of 2009 for timber and building materials.	Supportive as to dates.
7	The Applicant's wife 18/3/15	Confirms purchase in early 2009  Her husband to live here. She and sons have visited	Supportive  Supportive
8	Mr Spittle	The applicant has lived here since 2009  He has been employed as a gardener since July 2009. He visits once a week in summer and once a fortnight in winter. The applicant continues to live here. He is usually there when Mr S is.  He usually stays on site all day. The applicant is there 80% of the time. The wife and sons often come once a month.  Payment slips are attached	Supportive as the witness is regularly on site from 2009  Supportive  Supportive  Supportive
9	Mr Turvey	He has carried out electrical work here over the last six years. The applicant lives here. Started in 2009 – he installed the wiring for the kitchen, bedroom and lounge. Installed to residential standard. The applicant was always there. He added mains electrics. He has attended emergencies.  He attached Invoices from 2009 to 2014	Supportive as to the works carried out over time and on use  Supportive
10	Mr Hollins	Employed in 2009 to move and renovate an existing building. The applicant could then live here.  He has been back to do work. He stayed there too in 2010 and 2012. He has visited too without notice. The applicant has been there.	Supportive  Supportive
11	AE Fisheries	He surveys fish stocks here. Since 2009 always the home of the applicant. The applicant on site each day.	Supportive

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12	Mr Osbourne	Worked here in 2009 to fit out the building.  Stayed over at weekends and calls in without notice but the applicant not always in.	Supportive  Inconclusive
13	Mr Williams	On site as a carpenter in summer 2009 for two weeks. The applicant was there six of the ten days. The building was furnished for residential use.	Supportive as to the works, less so on the use.
14	Mr Grace	The applicant has been resident 2 or 3 times a week and most weeks since 2010. This is because he acted professionally for the applicant and had to contact him	Supportive in respect of use
15	NWBC  TV  Gas supply  BT  Western Power  Npower  STW  Mr Trumpeter	Registration of address dated 3/11/13  Address in 2012  New customer at this address 13/8/13  Supply 9/11/11  Connection 24/7/12  Connection 25/7/12  Connection 28/12/11  The applicant's company admin officer. This is the applicant's sole address for payroll and pensions since 2009. He has overseen the installation of utilities – electricity in 2001 (formerly a generator), Calor Gas in 2013 (formerly gas cylinders), BT landline in 2012, plus sorting his address and mailing issues.	Supportive  Supportive  Supportive  Supportive  Supportive  Supportive  Supportive
16	D Cahill	Has known the applicant for 20 years. He has resided here since 2009. His wife tells her he is at the site.	Hearsay evidence
17	Mr Grice	As above – same letter	Hearsay evidence
18	Select Lifestyles	Confirms the payroll and pension address is here.	Supportive

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19	DSN Accountants	Acted for the applicant since 2012. His address is here and has been his principle address since 2009. Confirms that utility bills are for here. Mains provided in 2009, prior to that a generator was used.	Supportive
20	Mr Clifford	The address has been insured for household purposes as a main residence since 2009.	Supportive
21	Mr Badger	Confirms residency since 2009. He has stayed there and sent post. He was there when Mr B visited on ad-hoc occasions.	Supportive
22	J Duffy	Owns the land next door. The applicant "stops" at the property.	Inconclusive
23	Mr Carr	Has visited once or twice a year. The applicant is always there. The property is well furnished.	Supportive
24	J Turner	The applicant is her brother-in-law. In 2009 he decided to live here. They visit and stay. The building is well furnished.	Supportive
25	S Lear	The applicant is a friend and lives here. He has stayed here and the building has full facilities.	Supportive
26	C Hodivala	She understands he has been here since 2009. She has visited. The applicant is always there. The accommodation is fully equipped.	Supportive
27	NWBC	Letter	Not relevant
28	Photographs of accommodation – indicative - undated		Inconclusive
29	NWBC	Letter 24/3/10	Not relevant

Following consideration of the above a schedule of utility bills has also been submitted. This evidence when taken as a whole is considered to be supportive.

Gas – these suggest regular supply of gas bottles from 2009 to "a couple of years ago" when a Calor Gas Tank was fitted outside of the property.

Electricity – bills go back to 2013. Npower were appointed in 2012 and prior to this there was a generator (shown in photographs).

Water – water was extracted from the lake in 2009 via a filtration system and evidence is submitted to this effect. Mains were added in 2011.

Waste – the property has a septic tank. Evidence is submitted that this was emptied in 2013, and that this tank replaced two porta-loos and that these were emptied in 2009, 2010 and 2011.

APPENDIX B

	Document	Content	Weight
1	The Parish Council	<p>Neighbours say that there is no permanent use. The applicant said it was for retirement; gates are padlocked. Deliveries do not enter if unscheduled.</p> <p>There is probably concealment.</p> <p>No dispute that works were done in 2009 and services installed since 2011.</p> <p>Family and friend visits are not evidence of residential use, only occasional use.</p> <p>Invoices for maintenance not evidence of full residential use.</p>	<p>Hearsay</p> <p>Supposition</p> <p>Supportive</p> <p>Comment, not evidence</p> <p>As above</p>
2	Mrs Dunbar	<p>Nearby landowner and present on her land most days.</p> <p>Repeats the comments above.</p> <p>Some deliveries to the site have not been met by the applicant.</p> <p>Gates are locked from the outside.</p> <p>The applicant is rarely seen.</p>	<p>Comment</p> <p>Inconclusive</p> <p>As above</p> <p>As above</p>
3	Mrs Wollaston	<p>Owens the stables next to the access track – on site most days.</p> <p>Deliveries do not enter as no-one is there.</p> <p>He said this was a retirement project.</p> <p>Gates are generally locked from the outside.</p> <p>Never occurred to her that someone was living here.</p>	<p>Assumption</p> <p>As above</p> <p>As above</p> <p>As above</p>
4	Mr and Mrs Young	<p>They have walked the dog over the last five years twice a day – no evidence with no parked cars and gates locked from the outside.</p> <p>Occasional use only</p>	<p>Inconclusive</p> <p>Assumption</p>

APPENDIX B

5	J Crawshaw	Has lived on the lane for five years. Walks dogs on 8 or 10 occasions a week. But there are long periods when no-one is there.	Inconclusive
6	Mr and Mrs Young	Between 13/4/15 and 7/6/15 dogs have been walked twice a day. No vehicles parked here and gates locked. Sometimes they meet workmen.	Inconclusive.
7	Mr and Mrs Starkey	Have lived here since 2001. Walk the dog daily. No evidence of occupancy.  The applicant viewed their house in 2011 saying that they wanted to live close to the fishery.  The applicant evidence suggests recent occupancy perhaps from 2011. The land registry plans obtained in 2012.	Inconclusive.  Inconclusive  Comment
8	Mr and Mrs Taylor	They walk here most days. Not seen evidence of residential use.	Inconclusive
9	Mrs Clare	Walks this way 2 or 3 times a week. Never seen the applicant here or experienced normal residential activity.	Inconclusive
10	Messrs D and G Ross	Not aware that anyone was living there.	Inconclusive.

In respect of the additional evidence on the utility bill schedule, the comments are:

Calor Gas cylinders or bottles are not evidence of residential use, they could be used in relation to the applicant's business interests.

In respect of the septic tank there are no invoices provided to evidence emptying in 2009, 2010 and 2011 and that the tank appears only to have been emptied once in the last four years.

In respect of electricity bills then there is a mixture of estimates and actuals and the values suggest limited use.

