PLANNING STATEMENT

Date Issued: March 2018

SITE ADDRESS:

Land at Rock House Farm, Town End Road, Foxt, ST10 2HN.

APPLICANT:

Mrs. C Lockwood

APPLICATION:

Certificate of Lawfulness for the existing use of the land as garden in conjunction with the residential use (Class C3 – limited by holiday use condition) of three buildings – Badger Cottage, Dormouse Cottage and Hedgehog Cottage.



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1 INTRODUCTION

1.1 This statement is submitted in support of a Certificate of Lawfulness application to establish that the lawful use of the land to the north of Rock House Farm has been used for at least ten years as a garden and recreational area in conjunction with, and ancillary to, the three holiday cottages at the Farm – Badger Cottage, Dormouse Cottage and Hedgehog Cottage and that as a result this use is lawful.

1.2 Planning permission for the conversion of the former farm buildings was granted in July 2003 (Reference: SMD/2003/0415) subject to a condition (No. 3), amongst others, that restricts the residential use of the property to holiday use only.

1.3 The red line on the original permission did not include the land which is subject to this application (See Appendix 1 – location plan). The red line included the three cottages, Rock House Farm and its garden to the west, a car park. The land which is the subject of this application is edged blue on the location plan.

The Holiday Accommodation Business.

1.4 The applicant and her husband lease the three cottages for holiday lets. The holiday accommodation business is run by Mr. and Mrs. Lockwood with help from their daughter Mrs. Samantha Bingham. Between the three of them they do all the maintenance, laundry, cleaning, administration, marketing and taking bookings, dealing with guests and their queries.

1.5 The first guests arrived in July 2006. The three cottages have been opened at different times as the work was done by a builder and associates with the assistance of Mr. Lockwood. Badger Cottage was the first of the three cottages in 2006 to be opened for guests. The business has continued uninterrupted since then and is still in operation. Dormouse Cottage was opened to guests in the summer of 2008 and Hedgehog Cottage was opened towards the end of 2009.

1.6 The three holiday cottages are named “Badger Cottage”, “Dormouse Cottage” and “Hedgehog Cottage”. Badger Cottage is detached from the other two cottages which are in what was the former barn. The adjoining map shows the three cottages which are marked A, B, and C. Cottage A is Dormouse Cottage and includes a garage. Cottage B is Hedgehog Cottage. Cottage C is Badger Cottage. Building D is Rockhouse Farm; the home of the applicant.



The other buildings within the red line on Figure 1 above are domestic buildings ancillary to the house. The area edged blue is the land that is the subject of this application and as well as being used as a garden which has been used by the guests since July 2006 and which includes a small play area**.** There is a communal car park for the guests in the east of the site marked “X” on Fig 1 above.

2. EVIDENCE

2.1 The Evidence in support of the applicants’ application is provided in a separate Evidence document titled “Evidence in Support of the Application for a Certificate of Lawfulness”. The individual items of evidence in the document are numbered consecutively.

2.2 The evidence in support of his case submitted, and referred to in this document, consists of:

1. A statutory declaration from Mrs. C Lockwood.
2. A statutory declaration from Mr. K Lockwood.
3. A statutory declaration from Mr. P Hann.
4. Aerial Photograph taken on 8th October 2011. A letter of confirming the date the aerial photograph was taken is enclosed with the photograph.
5. Letter from Mr. Jordan confirming the year in which the former outdoor riding area on the land was
6. Letter from Mr. Graham Swift from Foxt.
7. Letter from Mrs. Jane Swift from Foxt.
8. Letter from Mr. John Slater who has stayed at the property.
9. Letter from Mr. John Sutton from Foxt.
10. Letter from Mrs. Andrea Palk who has stayed at the property.
11. Letter from Mrs. Audrey Slattery who has stayed at the property.
12. Mrs. Jennifer Drew who have stayed at the property.

13. Extract from Visitors Book – 2006 – "Thomas and Emily" entry.
14. Extract from Visitors Book – August, 2007 – Hann Family entry.

2.3 The statements from Mr. and Mrs. Lockwood (Items 1 and 2) contain dated photographs. The dates for each photograph are taken from the applicant's computer for each file which shows the dates each photo was taken.

2.4 Items 5 to 12 are letters. It is appreciated that statutory declarations carry more weight than letters. However, the letters nonetheless show that the area which is the subject of this application has been used continuously as a garden used by guests since at least 2007 and support the statements made in the affidavits. Evidence Item 13 shows that the gardens were first used in 2006.

3 THE APPLICANT'S CASE.

3.1 Section 171(B)(3) of the Town and Country Planning Act 1990(updated in the Planning and Compensation Act 1991) sets out the time limits for taking enforcement action for a breach of a condition. This Section states that:

"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."

3.3 The essence of the applicant's case is that she and her husband started to create the garden in 2003; and that from 2006 guests at the cottages have used the garden. 2006 was when the first cottage – Badger Cottage- was opened. Based on this evidence it is contended that the land has been used as a garden by both the applicant and holiday guests for over ten years and that as such the use of the land as garden is immune from enforcement and is thereby lawful.

3.4 Mr. Jordan in his letter (Evidence Item 5) confirms that his firm supplied topsoil and covered and grassed the former outdoor riding area in 2003. Mr. and Mrs. Swift (Evidence Items 6 & 7) provide evidence indicating that the area of land in question was being used as a garden in 2004. There is a public footpath along the track to the north of the site and another along the north-eastern side of the application land. I understand from the applicant that this is where Mr. and Mrs. Swift walked their dogs. The plan in Appendix 1 is taken from the original planning permission for the conversion of the cottages. The aforementioned public footpaths (the dashed green lines) have been added to the plan for information.

3.5 Mr. and Mrs. Lockwood's statements state that Badger Cottage opened in 2006; Dormouse in 2008 and Hedgehog in 2009. The affidavit from M Peter Hann (evidence Item 3) states that when he, his wife, mother-in-law and his daughter stayed in Badger Cottage in 2007 they used the patio and garden. The letter from Mr. John Slater (Evidence Item 8) – who would have stayed in

Badger in 2007 – reinforces the existence and use of the garden in 2007 when he states that the garden, including the patio to the north-east of Dormouse and Hedgehog Cottages, was in use in 2007. Further evidence that the garden was used in 2007 by guests is contained in Evidence Item 9.

3.6 Badger Cottage was opened to guests in 2006. The extract from the visitors' book shows that the guests stayed in 2006. The garden (other than the patio – see later) is specifically mentioned by Thomas and Emily (see entry). In addition, Mr. and Mrs. Lockwood both declare that the garden has been used since 2006 by the holiday cottage guests.

3.7 Mrs. Lockwood following an operation cannot remember who stayed in 2006. The earliest guests that Mrs. Lockwood in her statutory declaration can remember were a family from Southampton in 2007.

3.8 The three submitted statutory declarations together with the letters show that the use of the space by holiday guests has been continuous since at least 2007 and in the case of Mr. and Mrs. declarations from 2006.

3.9 Both Mr. and Mrs. Lockwood's statements confirm the above dates and that they bought equipment at various dates for the garden and use of guests. With specific reference to the paved area or patio situated to the northeast of Dormouse and Hedgehog Cottages both Mr and Mrs Lockwood's declarations state that the area was first used by guests in August 2007.

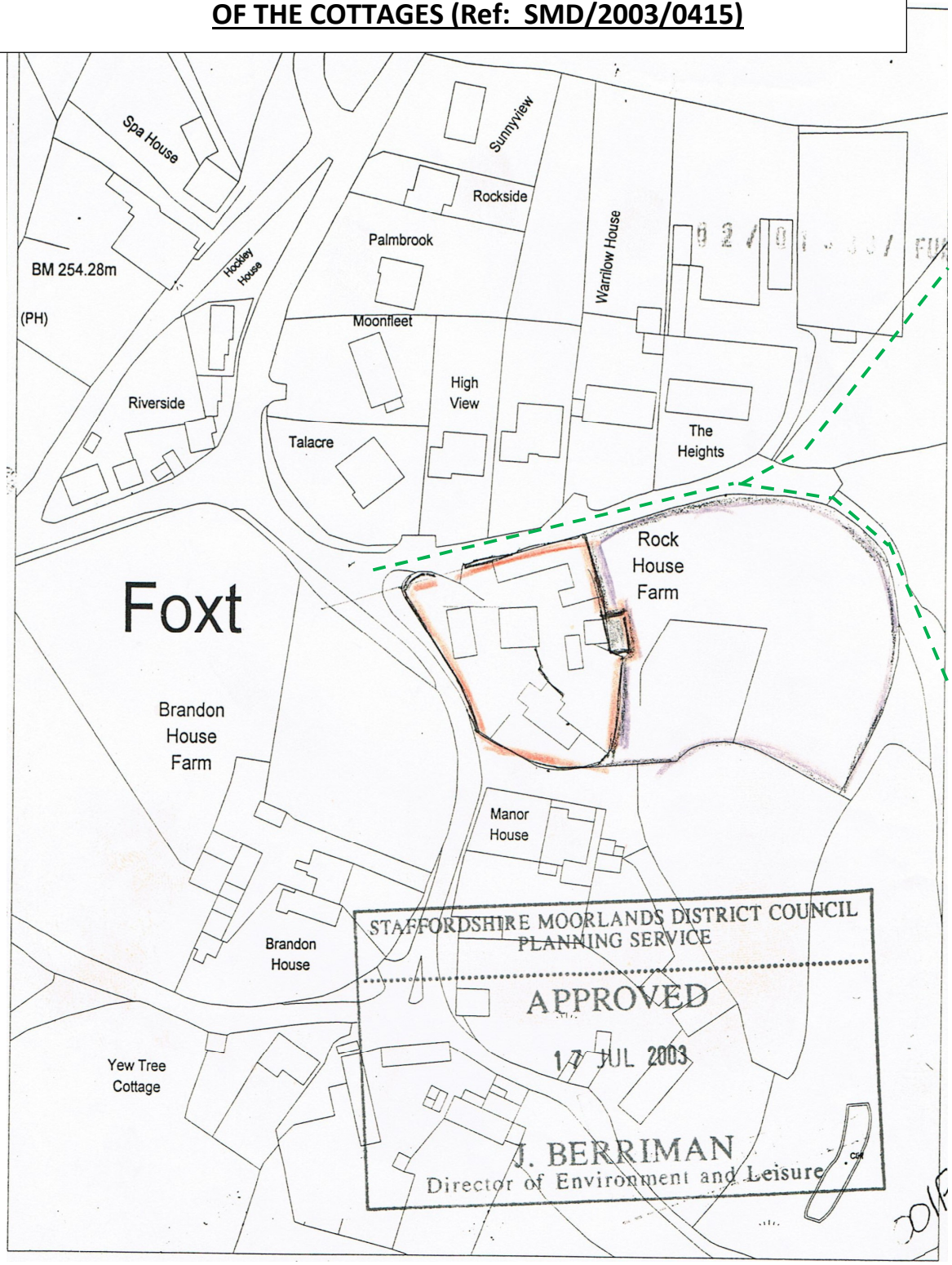
4 CONCLUSION.

4.1 It is contended that the evidence on the balance of probability shows that the land, including the patio, has been used in conjunction with the holiday cottages for more than ten years from the date of this application; the entire garden from 2006 and the patio from August 2007.

4.2 The time for enforcement is past and the Council is therefore respectfully requested to grant a lawful development certificate for the existing use of the land as garden in conjunction with the three holiday cottages.

APPENDIX 1 –

LOCATION PLAN FROM THE PERMISSION FOR THE CONVERSION OF THE COTTAGES (Ref: SMD/2003/0415)



= Public footpaths