

Supporting Statement

TO BE READ IN
CONJUNCTION WITH
A CERTIFICATE OF LAWFUL USE
APPLICATION
CONCERNING
NON-COMPLIANCE WITH
AGRICULTURAL OCCUPANCY CONDITION
PLACED ON
PLANNING PERMISSION REF.
AL/65/91

AT

EVERGREENS
LEVEL MARE LANE
EASTERGATE, WEST SUSSEX
PO20 3SA

APPLICANTS:
MR & MRS STENT

Background

Evergreen is a detached dwelling located on the south side of Level Mare Lane. It was granted outline planning consent on the 15th January 1992 under application ref. AL/65/91. Condition no. 3 of this consent stated:

'The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in the locality in agriculture as defined in Section 336(1) of the Town & Country Planning Act 1990, or in forestry including any dependents of such a person residing with him or her or a widow or widower of such a person.'

Approval of reserved matters for the dwelling was subsequently approved on the 11th August 1993 under application ref. AL/57/93. The dwelling was completed and occupied by the end of 1994.

History of Occupation

At the time planning consent was granted for the dwelling the site was run as a nursery business. This business continued trading from the site until 1996 when, for financial reasons, it was closed by the then owners/occupiers, Mr & Mrs Hodgkin. Mrs Tracey Hodgkin had initially established the nursery with her first husband, Mr Keet, but, following her divorce, remarried a Mr Guy Hodgkin. Mrs Tracey Hodgkin lived at Evergreens for the first ten years of the life of the property, that is to say, between 1994 to 2004.

On cessation of the nursery business Mrs Hodgkin established, with her second husband, a property letting and investment business that trades as G & T Properties. This was their sole source of employment and income from the latter part of the 1990s and the company still trades today. Non-compliance with the agricultural occupancy condition can therefore be traced back to the establishment of G & T properties in 1999, the agricultural/nursery use of the site having ceased three years earlier.

From February 2004 to August 2005 Mr & Mrs Hodgkin let the property on an Assured Shorthold Tenancy to the then managing Director of the Rolls Royce factory at Chichester, Mr Herman Boarer. This party occupied the property for this 18 month period.

[REDACTED]

In August 2005 the property was sold by Mr & Mrs Hodgkin to Mr & Mrs Stent who remain the current occupants. Mr & Mrs Stent are Directors of a company (Ultrastone International Ltd) that imports and sells pet and aquatic products. At the time of purchasing the property Mr Stent had intended to become the manager of a commercial nursery at Chichester and therefore would have complied with the occupancy condition on Evergreens. However almost immediately on buying the house he was afflicted by a serious prostate cancer that meant he never took up the job managing the Nursery business and in fact had to hand over the main role in Ultrastone International Ltd to one of his sons. His last full time employment was therefore as the Managing Director of Ultrastone International Ltd and this was prior to occupying Evergreens. Subsequently his role in the Company has been reduced to part time as a result of continuing bouts of ill health.

The occupancy condition on the property Evergreens has not therefore been complied since at least 1999, the point at which the former owners Mr & Mrs Hodgkin established their property letting business G & T Properties. The non compliance has been on a continual basis with their being no breaks in occupation of the house. The breach of the occupancy condition is therefore immune from enforcement action as the breach of the condition has taken place on a continual basis for more than 10 years.

Evidence presented to demonstrate on the balance of probability that the agricultural occupancy condition has been breached for the last 10 years.

The following evidence to prove non-compliance is submitted with this application;

1. A Statutory Declaration from the former owner Tracey Hodgkin setting out her history of occupation of the house and relevant employment record.
2. A letter from the accountant who acts for Mr & Mrs Hodgkin setting out details of when the nursery business at Evergreens ceased trading and when Mr & Mrs Hodgkin's property letting and investment business was established.
3. A Statutory Declaration from Mr Ian Stent setting out his history of occupation and relevant employment record.
4. A letter from Mr Stent's accountant giving details of his employment record over recent years.

Conclusions

It is believed that the evidence submitted proves, on the balance of probability, that the agricultural occupancy condition on planning permission ref. AL/65/91 has not been complied with for at least the past 10 years. The breach in the occupancy condition has been on a continual basis during this period.