

FROM:

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Resources Department
Tel Ext 37737

TO:

S Leeson Planning Officer
Dated 14 March 2012

REF:AL/10/12/CLE CONSULTATION

ADDRESS : EVER GREENS LEVEL MARE LANE EASTERGATE

NATURE OF USE : BREACH OF AGRICULTURAL OCCUPANCY CONDITION

1.ACKNOWLEDGEMENT AND TERMS OF ADVICE

Thanks for your recent consultation memo now returned together with your file on which alone plus the authorities cited this is based.

2.GENERAL RECOMMENDATION

I recommend you grant for reasons that follow subject to your finding any contradictory evidence.

I rely on you to tell me of any evidence indicating otherwise.

3.DETAILS AND TESTS UNDER SS 191 TCPA 1990 AND CIRCULAR 10/97 ANNEX 8

(1) Time: SS171 (1)-(3) and S191 TCPA 1990

The application is for a breach of an agricultural occupancy condition in Ref PP AL/65/91 Condition 3 cited at the Applicants' Statement page 1 so the time limit is 10 years under the above. See also Peter Ellis v DCLG and Chiltern DC 2009 EWHC 634 Admin para 18.

The Condition complies with the model in 11/95 .

The time period is 11 January 2002 to 11 January 2012 ie 10 years to date of the application.

The evidence does satisfy this test.

I have at this date seen no contradictory evidence of this position. I explain why below .

(2) Sufficiency of Evidence: para 8.12-8.22

The evidence judged on a balance of probability and the above criteria is sufficient and is precise and unambiguous.

Para 8.15 and the case of Gabbittass v SSE and Newham LBC 1985 JPL 630 referred to there establishes that corroboration is not needed unless to resolve any ambiguity. S194

TCPA 1990 states that it is a criminal offence to supply false or misleading information. So the applicants own uncorroborated evidence and unsworn evidence via letters is sufficient for these purposes.

The Evidence is :-

No	Informant	Comments
1	T PG Hodgkn	Occupier of Evergreens 1989 -2005 1994 house built under PP 1994- 2004 lived in house 2004-05 house let 1996- Nursery Business ceased –agriculture business ceased 1996- G& T Properties –non farming business being property managers 2004-2005 let to H Boarer worker at Rolls Royce Chichester 2005 Sells to Mr and Mrs Stent the applicants CONCLUSION 1996-2005 non agricultural occupiers 14 years
2	Mr and Mrs Stent	2005-to date 2012 non agricultural occupiers running a business called Ultrastone Ltd which sells pet items CONCLUSION 2005 to 2012 Non agricultural uses and occupiers

The Parish Council object but refer to only planning merits not evidence under Circular 10/97 Annex 8.

You could do business searches against the businesses G&T Properties and Ultrastone to confirm their non agricultural nature but it seems probable case proved on a balance of probability..

4. .FURTHER EVIDENCE

I rely on you to show me any fresh evidence which may alter the tenor of this advice .

5.TERMS

1. grant
2. identify precise land boundaries on plan for extent of use and curtilage
3. Set out that Cond 3 in Ref AL/65/91 dated 15 January 1992 has not been complied with for ten years as at date of CLEUD granted

ref

