

FROM:

Delwyn Jones Planning Solicitor
Resources Department
Tel Ext 737737
Dated 19 June 2014

TO:

Janice Chapman Planning Officer

REF:AL/34/14CLE/ CONSULTATION

ADDRESS : NORTON GLEBE NORTON LANE NORTON ALDINGBOURNE PO20 3NH
OPERATION : RE ROOFING ,REBUILDING ,2 WALLS WITH FOUNDATIONS

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 refuse for reasons that follow, subject to your finding any contradictory evidence.

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

For clarification I think it is claimed or I have considered :-

[a] whether the works were done and completed more than 4 years before the application

[b] the works are de minimis so not development

[c] the works are in some way permitted under S55 or GDPO

I do not think the works fit into any of these categories.

i3.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 operations so the time limit is 4 years under the above .

The time period is ie 26 March 2010 – 26 March 2014 ie 4 years to date of the application.

The evidence does not satisfy this test.

The application form at page 3 para 10 refers to “ when was the use or activity begun or building works completed – 1 /11/2013 “

The date given and underlined is only some 5 months after the application date ie date form submitted so the test is failed clearly, on this score.

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 insufficient and is imprecise and ambiguous.

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 consists of –2 photos , application form , and a 1 page unsigned statement and I comment :-

No	Item of Evidence	Comments
1	Application form dated 26 March 2014	This says “works completed 1/11/13” ie only some 5 – 6 months before the application so I fail to see why they believe they qualify for a CLEUD when they cannot meet the “time test “of 4 years for operations, as these are .
2	2 Photos 2013 and 2014 –before and after works	The 2013 photo shows a dilapidated barn with broken windows, unslated roof ,overgrown foliage and ivy on building , and the 2014 photo shows a much renovated building ---conclusion S55 (3) (a) exemption cannot apply to make the renovations de minimis because the works do materially affect the exterior of the building
3	Statement by Richard Beresford	This is not signed so is of no probative value It describes extensive works ---extensive wood rot – partial collapse - --re roof and rebuild two badly cracked walls – This extensive works description removes any possibility of any works being de minimis I have seen no evidence to suggest that this is an agricultural building to which Schedule 2 Part 8 PD could apply

		There is no reference to type of storage for which the building is used and there are no dimensions or measurements to found any PD rights under Part 8
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I think the works are significant and extensive ---- repairs for extensive wood rot – partial collapse ---re roof and rebuild two badly cracked walls --- see photos dated “September 13 “and “March 14” and the significant change in external appearance of the barn in the two pictures .So the works cannot be de minimis, within the S55(2) (a) exemption of Part 8 PD for an agricultural building.

Can they apply for a straightforward planning permission for full barn or building restoration works?

4.FURTHER EVIDENCE

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

5.TERMS

1. Refuse
2. They fail the 4 years rule based on their own statement in the application at page 3 para 10
3. They fail to produce any evidence that the works have any form of immunity due to lapse of time or permission or authority

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