



Planning Statement

TOWN & COUNTRY PLANNING ACT 1990

**SECTION 191 AS AMENDED BY
SECTION 10 OF
THE PLANNING & COMPENSATION ACT 1991**

**TOWN & COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015**

**PROPOSAL:
APPLICATION FOR
A LAWFUL DEVELOPMENT CERTIFICATE
FOR AN EXISTING USE
(C3 DWELLING HOUSE)**

**SITE:
THE ANNEXE
EVERGREENS, LEVEL MARE LANE
EASTERGATE, CHICHESTER
WEST SUSSEX PO20 3SA**

**APPLICANT:
MR I J STENT**

Background

The application property is a detached, self-contained, two-bed dwelling located in a position to the west of the property Evergreens.

The building is a traditional brick and tile structure having a gabled roof. The building pre-dates the property Evergreens and, for part of its history, it would have been used in association with the nursery that once existed on the land.

The applicant converted the building to a self-contained dwelling during 2012.

From the 1st October 2013 the building has been let under an Assured Shorthold Tenancy to a series of tenants. These are as follows:

1. Mrs Jean King who occupied the property during the period 1st October 2013 to 10th October 2015.
2. Laura Stevens & David Feltham who occupied the property from the 8th December 2015 to the 17th July 2017.
3. Richard Stanton & Karis Burley who occupied the property from the 1st September 2017 and remain in residence at the present time.

The Legislative Background

Section 171B of the Town & Country Planning Act 1990 deals with the time limits for enforcement action in respect of planning control. This section is reproduced below.

[Time limits

171B.-

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

[(2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).]

(3) 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.

(4) The preceding subsections do not prevent –

- (a) The service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
- (b) Taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.]

There is an accepted tension here between change of use to a single family dwellinghouse being the subject of a four-year time limit and a breach of condition being the subject of a ten year time limit.

This tension was assessed in *Arun DC v First Secretary of State* [2007] 1 W.L.R. 423. Here, the Court of Appeal held that the four year period in Section 171B(2) rather than the ten year period in s.171B(3) applied to a breach of planning control consisting in the change of use of an extension to use as a single dwellinghouse, even though it amounted to a failure to comply with a condition imposed when planning permission had been granted for the extension. As such, the condition could not be enforced more than four years after the breach.

Evidence Presented To Demonstrate That The Residential Use Of The Application Building Occurred For At Least The Past Four Years

This CLUED application is accompanied by the following documentation:

1. A Statutory Declaration signed by the applicant, Mr Ian John Stent. This sets out the history of his ownership of the property, confirms when he converted the building to a dwelling and who has occupied the dwelling and for what period.
2. A copy of the Shorthold Tenancy Agreement between the applicant and Mrs Jean King.
3. A copy of the Shorthold Tenancy Agreement between the applicant and Laura Stevens & David Feltham.
4. A copy of the Shorthold Tenancy Agreement between the applicant and Richard Stanton & Karis Burley.
5. A copy of a Google Earth aerial photograph dated 13th September 2012 which shows the application building in the course of conversion to a dwelling.
6. A copy of a Google Earth aerial photograph dated the 6th June 2013 which shows the application building having been converted to residential use. The conversion scheme is demonstrated on this aerial photograph by the existence of flat roof, dormer windows on the front and rear of the building. These dormer windows were inserted as part of the conversion scheme.

Conclusions

It is believed that this body of evidence comprises a comprehensive set of documentary evidence that proves ‘on the balance of probability’ that the application building has been in residential use for more than four years. The aerial photographs demonstrate that the building was converted to residential use during 2012 and that the conversion was complete by the middle of 2013. Copies of the Assured Shorthold Tenancy Agreements demonstrate that its use as a residential property has continued since the 1st October 2013. These facts are fully set out in the Statutory Declaration signed by the applicant.