

CERTIFICATE OF EXISTING LAWFUL DEVELOPMENT REPORT

REF NO: **A/116/10/CLE**

LOCATION: The Old Stables
 Brook Lane
 Rustington

PROPOSAL: Application for a Certificate of Lawfulness for an existing use as Class C3 residential.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Application for a Certificate of Lawfulness for an existing use as Class C3 residential. The application proposes that an existing stable block is deemed to have gained consent as a residential dwelling.
SITE AREA	The application building occupies a floor area of approximately 100 sq metres.
RESIDENTIAL DEVELOPMENT DEN	2.5 dph
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The boundaries comprises a mixture brick wall with railing, post and rail fencing, trees and bushes along the boundary.
SITE CHARACTERISTICS	The site contains 2 mobile caravans and a stable building that has been converted to residential use. The site has the appearance of an agricultural yard with a number of stables, storage buildings, farm animals, equipment/tools and other paraphernalia associated with agricultural use.
CHARACTER OF LOCALITY	Rural countryside outside the built up environment accessed along a narrow country lane.

RELEVANT SITE HISTORY

A/6/88	Application under Regulation 4 of the Town and Country Planning General Regulations 1976 for construction of new bypass road known as A259 RUSTINGTON BYPASS and associated roadworks, bridgeworks and accommodation works	No Objection 17-02-1988
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LU/10/88	Application under Regulation 4 of the Town and Country Planning General Regulations 1976 for construction of new bypass road known as A259 RUSTINGTON BYPASS and associated roadworks, bridgeworks and accommodation works	No Objection 17-02-1988
A/100/93	Clay pan tiled pitched roof to existing refurbished stables	Approve 21-03-1994
A/59/94	Retention and completion of dead store/tack room	Approve 23-06-1994
A/101/96	Use of land for stationing of residential mobile home	Approved Cond + S106 07-03-1997
A/96/98/	Use of land for the stationing of 1 no. mobile home.	Approve Cond 09-06-1999
A/12/02/	Renewal of temporary planning permission A/96/98 for use of land for the stationing of 1 no mobile home (Departure from the Development Plan)	Approved Cond + S106 16-04-2002
A/37/04/	Renewal of temporary permission A/12/02 for use of land for the stationing of 1 x mobile home	Approve Cond 06-05-2004

REPRESENTATIONS

Representations received:

Angmering Parish Council
Parish Council - No objection

Comments on Representations received:

Noted.

CONSULTATIONS

Council Tax
Planning Solicitor

Consultations responses received:

Planning Solicitor - recommendation grant based on submitted evidence subject to:

Terms

1. Grant;
2. Identify precise land boundaries on plan for extent of use;
3. describe accommodation i.e. number of rooms, etc and a plan ref exhibit 2 of the statement by J Reid; and
4. describe any car parks or other curtilage uses/space;

Comments on Consultation responses:

The Council Tax records indicated Mr Joe Reid was the occupier of the static caravans within the site since 1 Jan 1997.

On the site visit, it was noted the former stable building had the appearance of a residential dwelling both internally and externally.

The remaining comments are noted.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

Principle

Section 191 to 195 Town & country Planning Act 1990 and DOE Circular 10/97 Annex 8 have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

(i)What is judged on a balance of probability.

(ii)The onus of proof is on the applicant (and not the LPA) to adduce the evidence.

(iii)The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

The relevant time limit for the material change of use of the land from stable to C3 dwelling is 4 years.

Assessment

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 core supporting information comprises:

The uncontradicted statements by the occupier J Reid, J Light his son-in-law supported by letters from J Reids ex-wife Nora builders who built the conversion friends, friends and neighbours and letters photos and plans.

The Planning History:

No - 1

Item - J Reid moved in to converted stables 6 years ago 2004 on marriage breakdown
Comments - Clear and precise. Plan shows edged in red.

No - 2

Item - Colin Nickelson conversion of existing building to 2 bedrooms, bathroom, hall, living room, dining area in 2004.

Comments - Precise if brief consistent

No - 3

Item - J Light corroborates claims.

Comments - Precise as to date and use since 2004

No - 4

Item - Krall, Johnstone, Pettett, P & K Services, Bath, Reid, Camoccio, Hart, Kirk, Southern Horseboxes, Interior and exterior photos.

Comments - These are short but detailed statements, letters or invoices from neighbours, friends, business acquaintances and other visitors. They generally help to confirm the claim.

A planning officer site was undertaken and it was confirmed the former stables has the appearance of a two-bedroom residential dwelling that has been in situ for at least 4 years.

Council tax records have been inspected which indicate the applicant has been occupying the adjacent caravan with his ex-wife since 1997 which could be considered to contradict the above evidence, however, it is accepted council tax records may not have been updated to reflect the change in circumstances of the applicant which coupled with the supporting evidence within the application documentation, outweighs this contrary evidence.

The Inspectors Decision letter dated 2 July 2008 by Inspector Ammoun in relation to Forschinis Nursery is influential APP/C3810/C/07/2057181 i.e. a family can live in separate dwellings when the circumstances so arise i.e. family breakdown as has been indicated by the applicant in this instance.

Summary

The site has been visited and the two-bedroom dwelling appears to be have been occupied as a dwelling for the last 4 years. Council tax records have been inspected, and whilst it appears the applicant has been registered as resident on the adjacent caravan, given the overall weight of supporting evidence, on balance, this is not considered sufficient information in itself to warrant refusal of the application.

The Inspectors Decision on APP/C3810/C/07/2057181 confirms a family can live in separate dwelling within the same site in the case of family breakdown which has been evidenced in the application documentation.

Nothing in the planning history attached, on the face of it, contradicts the claim of the applicant.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The application building is located in what appears to be agricultural storage yard adjacent to 2

mobile caravans relatively well screened from the surrounding countryside. The stable building has been used as a single dwelling which is a permanent structure and sited in the south-west corner of the site. The accommodation comprises a living room/kitchen, bathroom and 2 bedrooms. The stables have been refurbished over a number of years to now have the appearance of residential dwelling constructed from brick and includes double glazing and has mains water, electricity, drainage and telephone connection.

The evidence submitted within the application fulfils the sufficiency of evidence test (para. 8.12 to 8.22) in that, judged on the balance of probability and the above criteria, the evidence is sufficient, precise and unambiguous.

It is therefore recommended that the certificate of existing use application be granted.

RECOMMENDATION

APPROVE

- 1 The Arun District Council hereby certify that on the 20 August 2010 the use hereby described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged boldly on the plan attached to this certificate was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 for the following reasons that the evidence shows when judged on a balance of probabilities the building has been in use as a dwelling on the site in excess of 4 years.
- 2 Siting of dwelling measuring a maximum of 16.6m in width, 5.8m in depth and 3.2m in height. The accommodation comprises a kitchen, living room, bathroom, two bedrooms.
- 3 The Old Stables, Brook Lane, Rustington
- 4 The dwelling which is shown on the plan attached to this certificate, within the area edged boldly in black.