

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: A/15/14/CLE

LOCATION: Alleycats Nursery
Dappers Lane
Angmering

PROPOSAL: Application for a certificate of lawful development for existing use - siting & occupation of a residential mobile home

DESCRIPTION OF APPLICATION

This application is for a Certificate of Lawfulness for use of the land for the siting and occupation of a single bedroom residential mobile home. No car parking area is included in the application.

DESCRIPTION OF SITE AND SURROUNDINGS

The site comprises a mobile home measuring 8m by 14m and includes a strip of land around it. The area to the rear of the home is overgrown and used for outside storage purposes for items including plastic hosing, gas cylinders and tree branches. The rear boundary is defined by 1.8m high close boarded fencing which is approx. 4m from the rear elevation of the mobile home. The front boundary includes a verge approx. 1.5m in depth adjacent to a roadway which is used for bin storage and provision of steps and plants in containers. A metal storage container, approx. 1m in width, is sited to the west side of the mobile home. The east side of the mobile home is adjacent to a caravan and access to it.

RELEVANT SITE HISTORY

The mobile home was originally sited on the land on a temporary basis under A/52/98 as nursery owner's accommodation. Based on the submitted information it is clear that it was never removed when the permission expired and it continued to be occupied by a tenant who was not employed in agriculture.

REPRESENTATIONS

Representations received:

Angmering Parish Council

No Objection It is noted that this application has arisen from a long-running compliance case and it is disappointing that the matter has been allowed to get to this point, but note there are no legal grounds to object to the application.

Comments on Representations received:

Noted

CONSULTATIONS

Planning Solicitor
Council Tax

Consultations responses received:

Planning Solicitor

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.

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 material change of use so the time limit is 10 years under the above. The time period is ie 28/01/04 to 28/01/14 - 10 years to date of the application.

The evidence does satisfy this test.

(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 analysed is :-

1) Application form 1 bedroom mobile home sited 30/11/01 under temporary planning permission ref A/52/98 which expired on 30/11/01 without caravan being removed

Probative

2) Planning Permission ref A/52/98 condition 1

Probative

3) Tenancy Perella and Hill Smith 23/3/01. One year assured shorthold

Probative -shows tenanted occupation of caravan

4) Housing Benefit letter to Hill Smith 2009 addressed to The mobile Home

Probative Suggests he stayed on from 2001

5) Undated electoral roll letter to Hill Smith

Probative refers to mobile home

6) School employers letters dated 21 May 2004, 27 May 2004, and Employment Contract 11 October 2004

Probative refers to address

7) Wage slip P60 2003/2004

Probative refers to address

8) Council Tax Demand 07/08

Probative-refers to Perella and addressed to caravan at The Acre

9) Benefit Decision Notice September 2013

Probative address of caravan stated

I have seen no contradictory evidence. The above, on balance of probability, proves the caravan/mobile home has been on site since 2001 as the applicant claims.

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.
3. describe accommodation ie number of rooms etc
4. limit persons in occupation
5. define any curtilage
6. describe any car parks or other curtilage uses/space

Council Tax

No record can be found

Comments on Consultation responses:

Solicitor's comments agreed.

Council tax comments are addressed in the submitted application details. It is confirmed that the property is on council tax record from 17-02-2000.

LEGISLATIVE BACKGROUND

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 this operation is 4/10 years.

1. Principles

Section 191 Town and Country Planning Act 1990 and Circular 10/97 Annexe 8

1.1 Time: SS171(1)-(3) and S191 Town and Country Planning Act 1990.

2. Assessment

The evidence consists of:

Photographs of the mobile home

A copy of 1998 planning decision and associated plan

A copy of Mr Hill-Smith's tenancy agreement

A letter from ADC to Mr Hill-Smith dated 07/10/2009, covering the period 10/12/07 - 4/10/09

A copy of a letter from Mr Hill-Smith regarding the register of electors which relates to 2010

A copy of letters from Angmering School to Mr Hill-Smith dated 21 May and 27 May 2004

A copy of P60 form for the year ending April 2004

A copy of a letter from WSCC to Mr Hill-Smith dated 11 October 2004

A copy of a Council tax demand relating to the mobile home at Acre Nursey dated 14/03/07

A copy of a letter from ADC to Mr Hill-Smith dated 2013

CONCLUSIONS

The application contains sufficient information to demonstrate that the use of the land for the siting of a mobile home has taken place continuously on the site for the last 10 years. It is considered that on the balance of probability that consent should be granted. It is therefore recommended that the certificate is granted in accordance with the following terms.

RECOMMENDATION

APPROVE

The Arun District Council hereby certify that on 28-01-2014 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town & Country Planning Act 1990 for the following reasons:

Evidence produced by the applicant shows that the use has operated for a period of more than 10 years. The period in which enforcement can be taken, as set out in section 171B of the Town & Country Planning Act 1990 (as amended) has therefore expired.

FIRST SCHEDULE

Operational development comprising siting of a mobile home on land to the rear of AlleyCats Nursery, Dappers Lane, Angmering, West Sussex, BN16 4EN .

SECOND SCHEDULE

Mobile home to the rear of AlleyCats Nursery, Dappers Lane, Angmering, West Sussex, BN16 4EN which is shown on the plan to this certificate, within the area edged boldly in black.

The extent of the use is the siting and residential use of a single bedroom mobile home and strip of land around it. The mobile home measures 14m by 8m and the application site includes land to the rear used for storage which is defined by boundary fencing and a strip of land to the sides and front of the mobile home approx. 1.5 metre wide. The west side of the caravan is used for siting a storage container. Occupation of the mobile home is restricted to Mr Hill Smith who is not employed on the adjoining land.



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