

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/19/26/CLE

LOCATION: Old Place Farm House
Old Place Farm
Rectory Lane
Angmering
BN16 4JU

PROPOSAL: Lawful development certificate for existing 2 No. residential extensions, 1 No. dormer roof extension, 3 No. ancillary residential buildings and use of land as residential garden.

DESCRIPTION OF APPLICATION

This application seeks a Lawful Development Certificate for two existing residential extensions, a dormer roof extension, three ancillary residential buildings, and the use of land as residential garden.

SITE AND SURROUNDINGS

The site is 'Old Place Farm House', a two-storey residential dwelling with outbuildings, tennis court, two driveways, and garden. It lies adjacent to an agricultural complex and surrounded by a large, open agricultural landscape.

RELEVANT SITE HISTORY

A/109/65	Outline Application For 2 Sotrey Farmhouse With S/C Bedroom Wing	Approve Conditionally 29-11-65
A/58/66	5 Bedroom Farmhouse With Office And Double Garage	Approve 11-07-66

No comments.

REPRESENTATIONS

Representations Received:

Angmering Parish Council

Angmering Parish Council - No objection.

No other representations.

Comments on Representations Received:

Noted.

CONSULTATIONS

Consultations Responses Received:

LEGISLATIVE BACKGROUND

Section 191 to 195 Town & Country Planning Act 1990 and NPPG guidance on CLE's have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

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

"...(2)For the purposes of this Act uses and operations are lawful at any time if-

(a)no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b)they do not constitute a contravention of any of the requirements of any enforcement notice then in force...

(4)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."

Paragraph 006 (Reference ID: 17c-006-20140306) of the Planning Practice Guidance (PPG) states that:-

"The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence... In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved."

Section 171B of the Town and Country Planning Act 1990 states:-

"(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-

(a)in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed...

(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."

The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 states:-

"5. The amendments made to the 1990 Act by section 115 of the 2023 Act (time limits for enforcement) do not apply where-

(a)in respect of a breach of planning control referred to in section 171B(1) of the 1990 Act (1) (time limits), the operations were substantially completed... before the day on which that section comes into force."

The relevant date for when The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024, in respect of Section 115, came into force, was the 25th of April 2024. In this instance, the existing development comprising building operations (extensions and outbuildings) were substantially completed before the 25th of April 2024. As such the relevant period for which no enforcement action can be taken upon these elements is four years, as it was prior to the amendments made to the Town and Country Planning Act 1990. The relevant period for the material change of use of land not previously approved as C3 (residential), to C3, that falls within the red edge or the application site, has not been amended and is ten years as per Section 171B(3).

CONCLUSION

The evidence submitted in support of the application consists of:

- Location Plan.
- Explanatory Statement with historic photography.
- Signed Statutory Declaration of Mrs Julia Longhurst.
- Signed Ordnance Survey Map with components highlighted (JL1).
- Signed Key and Block Plans approved under A/58/66 (JL2).
- Historic photography (JL3) of the construction of a single-storey sitting room extension and detached garage and playroom (1990)(Signed).
- Historic photography (JL4) of the construction of the vintage vehicles storage building (1991)(Signed).
- Historic photography (JL5) of the construction of garage extension with accommodation above and dormer (1997)(Signed).

Evidence canvassed by the Local Planning Authority includes:

- Historic aerial imagery and mapping.

Operational Development

From the evidence provided and review of historic aerial imagery dated 1991, it is probable that the single-storey sitting room extension and the detached garage and playroom (JL3) were constructed in 1990 as alleged.

From the evidence provided and review of historic aerial imagery dated 1991, it is probable that the vintage vehicles storage building (JL4) was constructed in 1990 as alleged.

From the evidence provided and review of historic aerial imagery dated 1991 and 2001, it is probable that the garage extension and dormer (JL5) were constructed between 1991 and 2001, likely 1997, as alleged.

From the evidence provided and review of historic aerial imagery dated 2013 and 2015, it is probable that the single-storey wood burner outbuilding was constructed in 2013 as alleged, or shortly after and before 2015. The outbuilding is understood to provide heat to the dwelling during the winter through the burning of wood and that although it falls on the northern side of what appears to be a former boundary wall, direct and readily available access to the outbuilding is facilitated through a gate and by footpath on the northern side of the dwelling.

From the evidence provided and review of historic aerial imagery dated 1991 and 2001, it is probable that the tennis court to the northeast of the main building was likely constructed in 1969 as alleged, certainly longer than 4 years before the submission of this application.

Change of use

From the evidence provided and review of historic aerial imagery dated periodically between 1991-2025, the tennis court, the land on which the outbuildings discussed above have been constructed and the land surrounding them, as outlined within the red edge of the Location Plan, has formed part of the residential curtilage of the main building for a period greater than 10 years. The same can also be said that the land to the north and south sides of the southern access drive on the basis that the vegetation appears consistently well-manicured and well-kept over time and transitions seamlessly with the remainder of the residential garden approved within the original site boundary approved under A/58/66 (JL2).

Summary

On the balance of probabilities, and based on the evidence before the Local Planning Authority, which does not include any cogent evidence that contradicts or otherwise makes the applicant's version of events less than probable, the operational development referred to within this submission were constructed in excess of 4 years prior to the submission this Lawful Development Certificate application.

Furthermore, on the balance of probabilities, and based on the evidence before the Local Planning Authority, which does not include any cogent evidence that contradicts or otherwise makes the applicant's version of events less than probable, all of the land outlined within the red edge of the submitted Location Plan (including tennis court, outbuildings, and peripheral land surrounding the outbuildings in question and the southern access drive) also forms part of the residential curtilage of Old Place Farm House.

RECOMMENDATION

APPROVE

The development described in the First Schedule to this certificate in respect of the land specified in the

Second Schedule to this certificate and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the date specified above, the operational development specified was substantially completed for a period greater than 4 years, and the land formed part of the residential curtilage of the property for a period greater than 10 years.

FIRST SCHEDULE

Use of the site and land outlined on the submitted Location Plan as residential curtilage (C3) and the construction of a single-storey sitting room extension, garage extension with accommodation above, installation of a dormer, and the construction of three outbuildings ancillary to the use Old Place Farm House as a dwelling.

SECOND SCHEDULE

Old Place Farm House, Old Place Farm, Rectory Lane, Angmering, BN16 4JU.

EXTENT OF USE

The land that forms the subject of this application is outlined in red in the submitted Location Plan (PP-12421400v1).

A/19/26/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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