

CERTIFICATE OF EXISTING LAWFUL DEVELOPMENT REPORT**REF NO:** BE/30/09/CLE**LOCATION:** Parkside Farm
Shripney Lane
Shripney**PROPOSAL:** Application for a Certificate of Lawfulness for an existing use of building as a single dwelling house**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above
SITE AREA	Approximately 43 square metres
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Front boundary is open, rear boundary has ranch type fencing approximately 1.2m in height then open fields, east side boundary ranch type fencing approximately 1.5m in height, west side boundary hedging/tree screening over 3m in height.
SITE CHARACTERISTICS	Single storey building with a flat roof, green walls with white window frames and doors. Wooden shed and storage building to east of site.
CHARACTER OF LOCALITY	Rural location with farm buildings, open fields to the rear.

RELEVANT SITE HISTORY

BE/20/87	Renewal of temporary planning permission BE/147/84 for mobile home in connection with agricultural use	Approve Cond 23-03-1987
BE/47/89	Renewal of temporary planning permission BE/20/87 mobile home in connection with agricultural use	Approve Cond 08-05-1989
BE/15/91	Renewal of temporary planning permission BE/47/89 - mobile home in connection with agricultural use	Approve Cond 03-06-1991
BE/25/92	Renewal of temporary planning permission BE/15/91 for mobile home.	Refused 13-04-1992

BE/38/92	Renewal of temporary planning permission BE/15/91 for mobile home	Approve Cond 17-06-1992
BE/23/94	Renewal of temporary planning permission BE/38/92 for mobile home for T Conner Esq.	Approve Cond 01-07-1994
BE/117/83	Change of use retention of mobile home in connection with proposed agricultural use	Approve Cond 03-01-1984
BE/147/84	Renewal of temporary permission BE/117/83 for mobile home in connection with agricultural use	Approve Cond 20-02-1985

REPRESENTATIONS

Representations received:

Bersted Parish Council

No objection.

1 Letter of Objection

Mobile home remained unoccupied for a while and this alone would in my judgement appear to negate the applicants 12 years option. Has any assessment and levy been made against the owner of the property in respect of Council Taxes. This is another case of disregard for the planning laws.

Comments on Representations received:

Comments noted. However, this application is to provide evidence that the bungalow has been in situ for a period of 4 years, other matters are not material.

CONSULTATIONS

Planning Solicitor

Consultations responses received:

The letter from the agent dated 6th April refers to a mobile home on the land benefiting from several planning permissions (as the planning history confirms 1984 to 1994 ref: BE/23/94. The letter then says that 'the owners erected a permanent structure adjacent to the mobile home which was occupied as a single dwelling, the mobile home is still located adjoining the dwelling but is dilapidated and unoccupied.

Accordingly, I have approached this as an operational development and not a change of use.

A site inspection should establish more information and in particular the degree of permanence and the degree of domestication

The application is for operations so the time limit is 4 years under the above. The time period is 4 years to date of the application I.e. 02/04/05 to 02/04/09.

The evidence does satisfy this test.

Comments on Consultation responses:

Comments 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 of 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 case they shall refuse the application.

Principle

Section 191 to 195 of the Town and 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 site visit carried out has ascertained that the building on site is affixed to the land and agreed that it was properly described as a "structure" or "building" and lacked the mobility features of a caravan per S29 Caravan Sites and Control of Development Act 1960.

That said it must follow the 4 year rule and not the ten year rule for change of use which applies to caravans that are not affixed.

Assessment

Site Plan which shows the siting and elevations/floor plans of the building.

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 evidence consists of:-

(1) Owners evidence 1999 to 2006 C A Gash. During this time erection of the building is claimed to have occurred (must be circa 2005 if to qualify for CLEUD) after a series of temporary planning permissions for a mobile home in 1984 to 1999. Services connected as permanent home, no wheels, double glazing and new bathroom via Arun District Council grant. Council Tax paid. Para 4 refers to conversion into dwelling/bungalow.

(2) Owners evidence 2006 to date D J Horton. In 2006 the dwelling was a bungalow, see para 3 and 4 letter to tenants dated 22 December 2006. Exhibited are Council Tax receipts and demands from 2006/2007, 2007/2008, 2008/2009. Arun District Improvement Grant letter dated 4 May 2004 and several builders invoices dated Sussex Renovations September and December

2003 made out to Tupper Associates but referring to Parkside Farm, Bradley Electrics dated December 2002 also to Mr Connor of Parkside Farm which refer to renovations and heating and sub main.

(3) Tenant 2006 to date Silvia Veleva, this is very short (half a A4 page and without any exhibits) but it confirms the testimony of the previous witness.

Caravan Siting evidence

Finally the evidence tends to support the siting of a caravan in the event that the case for a CLEUD for a dwelling is not proven. In summary it refers back to a series of planning permissions in circa 1984 to 1999 when the last planning permission expired but the caravan then remained.

Summary

Site has been visited and the two bedroom accommodation is in situ. Council Tax and Environmental Health records have been inspected and improvement grant was issued in respect of dwelling not caravan.

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 site is within a farm complex adjacent to a storage building and barn and is well screened with open fields to the rear. The mobile home which has been used as a single dwelling is a permanent structure and is sited in the north west corner of the site. The accommodation comprises a lounge, kitchen, bathroom and two bedrooms. The building has been improved and refurbished over many years with double glazing and has mains water, electricity, drainage and telephone connection.

Temporary permissions had been sought for the mobile home over many years the last one expired on 30th June, 1999 under planning permission BE/23/94.

The evidence submitted with 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 9th April 2009 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 dwelling has been on the site in excess of 4 years.

- 2 Siting of dwelling measuring 8.6m in width, 5.9m in depth and 3.2m in height. The accommodation comprises a kitchen, lounge, bathroom, two bedrooms with amenity land.
- 3 Parkside Farm, Shripney Lane, Shripney.
- 4 The dwelling and amenity land which is shown on the plan attached to this certificate, within the area edged boldly in black.