

FROM:

Delwyn Jones Planning Solicitor
Resources Department
Tel Ext 737737
Dated 21 October 2014

TO:

Simon Davis
Planning Officer

REF:CM/38/14CLE/ CONSULTATION

ADDRESS : FLINT BARN THE STREET CLIPPING

NATURE OF USE : AGRICULTURAL BUILDING/LAND TO C3 DWELLING AND GARDEN

1.ACKNOWLEDGEMENT AND TERMS OF ADVICE

Thanks for your recent consultation memo dated 9 October now returned together with your file on which alone plus the authorities cited this is based.

2.GENERAL RECOMMENDATION

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.

3.DETAILS AND TESTS UNDER SS 191 TCPA 1990 AND NPPG GUIDANCE ON LAWFUL DEVELOPMENT CERTIFICATES[LDCs]

(1) Time: SS171 (1)-(3) and S191 TCPA 1990

The application is for material change of use so the time limit is 10 years under the above .

The time period is ie 16 September 2004 – 16 September 2014 --10 years to date of the application.

The evidence does satisfy this test.

I have at this date seen no contradictory evidence of this position. I explain why below.

(2) Sufficiency of Evidence: NPPG Guidance LDCs Part 3 Application and Determination

The evidence judged on a balance of probability and the above criteria is sufficient and is precise and unambiguous.

Para 3 NPPG says that “...if an LPA has no evidence itself ,nor any from others, to contradict or otherwise make the applicant’s version less than probable , there is no good

reason to refuse provided the applicant's evidence alone is sufficiently precise and unambiguous”.

Para 3 in NPPG cited above 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 analysis with comments is

Number	Item of Evidence	Comment
1	Application form – signed by applicant D Waite – bought house in 2000 and used land as garden ever since para 9 and 10	Probative –precise and timeous over 10 years
2	HMLR OCE ref WSX 241841 shows purchased land on 12 May 2000	Probative –supports 1 above
3	Site plan on WSX 241841	Probative – see certificate as to ownership
4	Letter D Waite 18 September lists and refers to item 1	Shows same signature
5	Peter Beck letter 7 October – up to 2000 owned land – removed old greenhouses therefrom as sold land as garden to Waites – observed Waites using it as such	Precise –probative
6	Mr Waite letter dated 8 October –refers to 2004 aerial photo and Mr Beck	Within 10 years 04/14 probative precise

I have seen no contradictory evidence to cast doubt on the claims. On balance of probability the case is proven. The NPPG advice is to grant in such cases.

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 extent and uses

ref/lgdr/lprec/pl/cleudetcmodelmem

ref