

FROM:

Delwyn Jones Planning Solicitor
Resources Department
Tel Ext 737737

TO:

A Gardner Planning Officer

Dated 28 January 2014

REF:CM/20/13CLE CONSULTATION

ADDRESS : BAIRDS FARM SHOP GROUNDS OR CURTILAGE EXTENSION

**NATURE OF USE : FROM AGRICULTURAL FIELD TO GARDEN CENTRE FARM
SHOP A1**

1.ACKNOWLEDGEMENT AND TERMS OF ADVICE

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

I approach this matter on the basis that it is an extension to the curtilage or grounds of the farm shop. This is the red edge of the application site. It is well established that a farm shop has been on site for a long time. The Planning History evidences this.

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 CIRCULAR 10/97 ANNEX 8

(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 25/11/2003 to 25/11/13 ie 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: 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 :-

No	Evidence	Comments	Notes
1	Alison Baird Shop manager	2008 to date Known site since this time and fence erected to keep out burglars circa 2008	Clear and precise
2	John Baird Shop owner 1995 – 2008	Father owned site 1975 on so he know site since then Shop manager 95/08	Paras 9 - 12 outline fence erection and extension in 2003 Exhibit JB is a bundle of invoices for the works. The red edged land has been used since for farm shop use. Clear and precise
3	Aerial photos 2001 and 2013 on Google Earth	Latest 2013 shots shows the new fencing works and extension of the site into countryside	Clear and precise
4	Ms Besser	Objector suggests relevance of case of Welwyn Hatfield BC 2011 ---“house behind the hay bales” case. Offers no facts or other relevant information	The legal case is not relevant. It relates to concealed development and the commencement of the period to take enforcement commencing when the discovery of the breach occurs. This type of concealed breach is now addressed in SS171 BA TCPA 1990 as amended by Localism Act 2011
5	Planning History	Several references to applications connected to farm shop	

On a balance of probability, and the lack of contrary evidence, I judge that the case to extend the red edge is proven and a CLEUD to that effect can be granted.

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.

ref/lgdr/lprec/pl/cleudetcmodelmem
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