

FROM:

Planning Solicitor
Resources Department
Tel Ext

TO:

J Smith
Planning Officer
Dated 19 October 2011

REF:FP/134/11/CLE CONSULTATION

ADDRESS : SEA BREEZE SEA ROAD FELPHAM

NATURE OF OPERATION :BALCONY

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 assume that the description “ Discharge of Condition “ is an error because all the other papers refer to a CLE claiming a balcony has been there for 10 plus years.

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 operations viz a balcony so the time limit is 4 years under the above .

The time period is 8 September 2007 to 8 September 2011 ie 4 years to date of the application.

The evidence does satisfy this test in that there are 2 letters –referred to below saying that the balcony has been in situ for at least 4 years ,counting back from date of the application.

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. I make some qualifications below for you to check.

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.

Items	Comments
Letter 5 July 2011 from Kingsworth at Sea Road	Confirms that Sea Breeze had a balcony since "last 10/12 years "
B Wood letter dated 1 July 2011	Repaired a balcony in situ in 2009 –which suggests that a balcony had been in situ for some time as of 2009 so as to need extensive repair

It may be said that these letters don't give dimensions but your site visit can supply these. I have been shown no contradictory evidence.

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 precise balcony with dimensions in metres .

ref/lgdr/lprec/pl/cleudetcmodelmem

ref