

**FROM:**

Delwyn Jones  
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Resources Department  
Tel Ext 737737  
Dated 7 February 2014

**TO:**

Simon Davis Planning Officer

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**REF:FP/229/13CLE/ CONSULTATION**

**ADDRESS : LORAIN SEA ROAD FELPHAM PO22 7AN**

**NATURE OF USE : SINGLE DWELLING HOUSE CONVERTED INTO TWO**

**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.

**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 4 years under the above .

The time period is ie 9 December 2009 ---9 December 2013-4 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.

I have analysed this evidence below :-

| No | Item of evidence                                                                                                                                                     | Comments summary                                                                                                                                                                                                                              | Comments notes observations                                                 |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1  | Application form                                                                                                                                                     | Signed by applicant so S193 TCPA 1990 applies                                                                                                                                                                                                 |                                                                             |
| 2. | Petition joint statement<br>Butler<br>Clarke ?<br>Illegible of No 42 Ancton Way<br>Illegible of No 4 4 Farm Close<br>Illegible of 9 Whitebeam<br>Holloway<br>Collins | The generality and illegibility of some names of this joint statement as well as its petition like nature and its failure to address specifics robs this of weight but the gist is clear and so is its support from other sources of evidence | Not weight but gist is 2 dwellings for 25 years and supported /corroborated |
| 3  | S Holloway signatory of item 2 as well –letter confirms 2 dwellings for 20 + years                                                                                   | Weighty specific                                                                                                                                                                                                                              | Weighty specific                                                            |
| 4  | D Bushell tenant and resident of second dwelling                                                                                                                     | Describes accommodation and separate access                                                                                                                                                                                                   | Weighty specific                                                            |
| 5  | RM Fisher                                                                                                                                                            | 2001 worked on site and saw separate divided dwellings x 2                                                                                                                                                                                    | Weighty specific                                                            |
| 6  | Stevenson<br>Benefits Team leader ADC                                                                                                                                | Benefits paid to Bushell – 2005 – 2013 as tenant at Loraine                                                                                                                                                                                   | Weighty specific                                                            |
| 7  | Rent Book for Bushel for Loraine                                                                                                                                     | First payments February 2003 and last payments 2011                                                                                                                                                                                           | Weighty specific                                                            |

The evidence, taken together, proves the case for two separate dwellings , judged on balance of probability.

I have had regard to the EPL Vol 6 para 3B-2054 definition of a “dwellinghouse “ per **Gravesham BC v SoSE 1984 and Sage v SoSE 2003** meaning no special legal definition, but applying ordinary common sense concepts of a living space.

I suggest you get further confirmation from Council tax and the Electoral Roll.

#### **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 accommodation ie number of rooms etc
4. limit persons in occupation
5. describe any car parks or other curtilage uses/space

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