

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: PA/4/12/CLE

location Land to NW of Myrtle Grove Farm
Patching

PROPOSAL: Application for Certificate of Lawfulness for the existing development of a Sand School - This application lies within the South Downs National Park Authority

SITE AND SURROUNDINGS

Site is located in a rural area. Open farmland fields with some hedging. Gated access to fields. Site is rectangular in shape comprising a dark brown colour and is surfaced in sand/timber chippings. Track splits fields. Area to west had 8 horses in field at time of visit. Sand school is located in section to south adjacent to track. Gated access in south west corner. Evidence of equine paraphanelia mainly jumps in this area. Several footpaths/bridleways in locality.

RELEVANT SITE HISTORY

PA/16/09/CLE	Application for a Certificate of Lawfulness for an existing "L" shaped stable block.	Approve 18-11-2009
PA/13/09/CLE	Application for certificate of lawfulness for existing stable buildings	Approve 23-11-2009
PA/17/09/CLE	Application for a Certificate of Lawfulness for an existing use of land for private stabling of horses.	Approve 02-12-2009
PA/5/12/CLE	Application for Certificate of Lawfulness for the existing use of land for equestrian activity (This application falls within the South Downs National Park Authority)	Approve 23-03-2012

Planning history does confirm stables and equine use on nearby land.

REPRESENTATIONS

Representations received:

Awaited

Comments on Representations received:

None

CONSULTATIONS

Planning Solicitor

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Consultations responses received:

Planning Solicitor

The application is for an operation viz construction of a sand school so the time limit is 4 years.

The time periods are 18th January 2008 to date of application 18th January 2012.

The evidence does satisfy this test. Works to create the sand school were carried out circa March-April 2005.

Sufficiency of evidence: para 8.12-8.22. The evidence judged on balance is of probability is sufficient, precise and unambiguous.

Para 8.15 and the case of Grabbittass-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 consists of a statement by the claimant which is precise and detailed as to location work and dates.

C Ransford invoice 21, 22 and 23 March 2005 for construction of sand school 4 years ago at address of site, E Penn letter dated 13 December 2011 confirms sand school created in spring 2005.

Comments on Consultation responses:

None

LEGISLATIVE BACKGROUND

Principle

Section 191 to 195 Town & 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 relevant time limit for this operation is 4/~~10~~ years.

1. Principles

Section 191 Town and Country Planning Act 1990 and Circular 10/97 Annexe 8

1.1 Time: SS171(1)-(3) and S191 Town and Country Planning Act 1990.

2. Assessment

The evidence consists of:

Receipt of equestrian bark deliveries dated 21/22/23/3/05 from Charles Ransford and Son Limited

Agricultural/plant hire invoice from NA Jordan for works completed for construction of horse arena starting work done 21/3/05-2/4/05.

Statement from E Penn confirming sand school was constructed on land in Spring 2005 and has been used by owners for riding and turning out their horses.

CONCLUSIONS

The application does contain sufficient information to demonstrate the construction of the sand

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school and use for the last 4 years.

RECOMMENDATION

APPROVE

CLE HEADER

The Arun District Council hereby certify that on 18-01-2012 the use and operations described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged black on the plan attached to this certificate, were lawful within the meaning of section 191 of the Town & Country Planning Act 1990 for the following reason

At the date specified above a sand school had been constructed and has been used for in excess of 4 years.

FIRST SCHEDULE

Construction of a sand school to North West of Myrtlegrove Cottage and the extent of use is that defined on the submitted application plan and relates to the riding and turning out of owners horses on the land. This does not include storage of equine paraphanelia or any form of commercial use.

SECOND SCHEDULE

Land to the North West of 129 Myrtlegrove Cottage, Myrtlegrove Farm, Patching

~~REASONS FOR REFUSAL OR INFORMATIVE(S)~~

JB.
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