

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

REF NO: P/62/19/CLE

LOCATION: Touchwood
Pagham Road
Lagness
PO20 1LL

PROPOSAL: Application for a Lawful Development Certificate for an existing use - use of property as unrestricted residential dwelling

DESCRIPTION OF APPLICATION

The application is for a certificate of lawfulness for the use of the existing dwelling by persons other than employed in agriculture. The applicant must provide evidence that the dwelling has been occupied by persons working outside of agriculture for a continuous period of time of at least 10 years.

SITE AND SURROUNDINGS

The site is occupied by a single storey detached bungalow.

RELEVANT SITE HISTORY

P/133/05/	Brick built outside access only store room to look like a porch. Continue pitched roof in place of flat roof on garage	ApproveConditionally 05-01-06
P/123/04/	Conservatory	ApproveConditionally 23-12-04
P/136/02/	Extension to bungalow	ApproveConditionally 20-12-02

Relevant planning history noted.

REPRESENTATIONS

Representations Received:

Pagham Parish Council

No objection.

No representation received from nearby occupiers.

Comments on Representations Received:

Comments noted.

CONSULTATIONS

Consultations Responses Received:

ADC LEGAL RESPONSE

I am of the opinion that the application should be granted as there is no good reason to refuse it.

Comments on Consultation Responses:

Comments noted.

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

Section 191 to 195 Town & Country Planning Act 1990 and NPPG guidance on LDC's 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; and
- (iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

Section S171(1)-(3) and S191 TCPA 1990. The relevant time period is July 2009 to July 2019 i.e. 10 years to the date of the application.

CONCLUSION

Evidence submitted consists of

- Letter

- Tax terms with the last being for the tax year ending April 2005.

From the evidence submitted and the advice from the Planning Solicitor, the LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version less than probable. There is therefore no good reason to refuse the application.

RECOMMENDATION

APPROVE

The use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the date specified above, the property had been in use as a private dwelling occupied by persons not employed in agriculture for a continuous period of at least 10 years.

FIRST SCHEDULE

Use of dwelling for unrestricted residential occupation.

SECOND SCHEDULE

Touchwood, Pagham Road, Lagness, Chichester, PO20 1LL which is shown on the plan to this certificate within the area edged boldly in black.

EXTENT OF USE

Use of dwelling as an unrestricted residential dwelling.

P/62/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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