



Date: 28th August 2019
Our Ref: 19034
Your Ref:

Mr Karl Roberts,
Planning Services
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

Dear Sirs,

Re: Certificate of Lawfulness of Existing Use of Building known as 'Sycamore Barn', as a Self-Contained Dwellinghouse:

Building to West of 6 Church Lane, Pagham, Bognor Regis, West Sussex, PO21 4NS

Introduction

I am instructed by Mr and Mrs Jarvis, of 6 Church Lane, Pagham, Bognor Regis, West Sussex, PO21 4NS, to submit an application for a Lawful Development Certificate seeking legal confirmation from the Local Planning Authority that the building known as Sycamore Barn has a lawful use as a self-contained dwellinghouse.

The evidence submitted with this application demonstrates, on the balance of probability, that Sycamore Barn has operated and been occupied as a self-contained dwelling since 10th April 2015 up to the present time.

This statement explains the sites history and addresses the legal basis for the application and sets this into context with supporting documentary evidence.

Site Description

The application site comprises a single storey, linear, barn styled building located on the north side of Church Lane in Pagham, just to the west of 6 Church Lane.



Figure 1 Residential Curtilage of Sycamore Barn

Externally the building is constructed with brick, flint and stone elevations beneath a clay tiled roof which is hipped at its southern end and gabled at its northern elevation. The southern end of the building comprises a storage/laundry room which is entered via black painted timber double doors within the east elevation. The remainder of the building consists of a lounge/kitchen-diner, a bathroom and a double bedroom. To the east of the building is a concrete surfaced parking area for two vehicles. This space also accommodates bin storage. To the north of the building is a patio area; the strip of land to the west of Sycamore Barn is laid to lawn, beyond which is open farmland.



Figure 2 Above: Front and Rear of Sycamore Barn – Rear of 6 Church Lane is seen Beyond

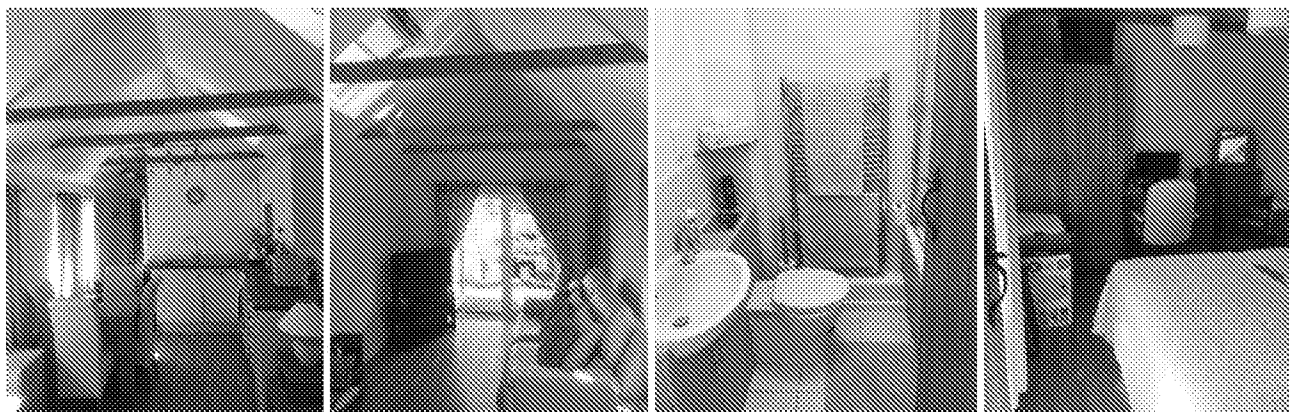


Figure 3 Above: Interior Photographs of Sycamore Barn

History

When the applicants purchased No.6 Church Lane in February 2008 “Sycamore Barn” was used as a garage / store. Due to its limited internal size the structure proved to be impractical for use as a garage. The applicants subsequently converted the building to habitable accommodation at the beginning of 2009.

The building was subdivided to provide a lounge/kitchen-diner, a bathroom and a double bedroom together with a separate store at its southern end. A small patio was laid to the north of the building and a 1.8m high close boarded fence was erected between Sycamore Barn and the dwellinghouse 6 Church Lane. The enclosed area to the east of the building included a parking area for two cars with an ungated access directly from Church Lane.

Whilst the applicants did not apply for planning permission for the conversion of the building to habitable accommodation, they did obtain Building Regulations Consent. Accompanying this application as **Document 1** is a copy of a letter from Arun District Council’s Senior Building Control Surveyor, Richard Windust, (Ref: P/90/08/BN) dated 3rd April 2009. In this letter Mr Windust states “... Please note that due to the Application being in the form of a Building Notice, no Completion certificate can be issued. However, this letter can be accepted as formal notification to this effect...”

From May 2009 the building was let out as a unit of self-contained holiday let accommodation. This was offered on the market as a self-catering unit and was occupied independently of No.6 Church Lane. The use of Sycamore Barn as a holiday let ceased on 23rd of March 2015. Since this time the building has only been occupied by Mr and Mrs Wright, who have lived at the property as their sole place of residence from 10th April 2015 to the present day.

The following planning applications relating to 6 Church Lane, Pagham have been submitted to, and permitted, by the Local Planning Authority in recent years.

P/79/08/	Rear two storey extension	Permitted 1 st August 2008
P/126/08/	New detached garage and highway access	Permitted 26 th November 2008

Legal Planning Background

For the purpose of obtaining a certificate of lawfulness, Section 191 of the Town and Country Planning Act 1990 sets out:

“(1) *If any person wishes to ascertain whether:*

- a) any existing use of buildings or other land is lawful;*
- b) any operations which have been carried out in, on, over or under land are lawful; or,*
- c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.*

(2) *For the purposes of this Act uses and operations are lawful at any time if—*

- a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*
- b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force”.*

With regard to the relevant ‘time for enforcement action’ Section 171B of the 1990 Act states:

“(2) *Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.”*

Similarly, paragraph 171B of the Planning and Compensation Act 1991 introduced rolling time limits within which local planning authorities can take planning enforcement action against breaches of planning control. The time limits are:

- “(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.*
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.*
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.*
- (4) The preceding subsections do not prevent—*
 - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or*

- (b) *taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.”*
- (2) *If, in the case of any breach of planning control, the time for issuing an enforcement notice has expired, before the coming into force of this section, by virtue of section 172(4)(b) of the principal Act (as originally enacted), nothing in this section enables any enforcement action to be taken in respect of the breach.”*

Definition of a Dwellinghouse

With regards to the definition of a “dwellinghouse” the starting point in this context is *Gravesham Borough Council v Secretary of State for the Environment (1982) P&CR 142*. McCulloch J in the High Court was required to consider the definition of a dwelling house. He held that a distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-to-day private domestic existence.

Guidance in Relation to the Weight that Should be Afforded to Evidence

The National Planning Practice Guidance states that *“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”* (PPG Ref: Paragraph: 006 Reference ID: 17c-006-20140306 - Revision date: 06 03 2014 - <https://www.gov.uk/guidance/lawful-development-certificates>).

The Facts of this Case

The building known as Sycamore Barn was converted for occupancy as a separate dwelling during the first few months of 2009. A Building Notice was submitted the Council under reference P/90/08/BN for the *“... conversion of detached garage and store to ancillary domestic use.”* The converted building, which comprised a kitchen, dining and living room, a bathroom, a bedroom and storage space, was the subject of a final inspection by the Council’s Senior Building Control Surveyor on 13th February 2009. In his letter of 3rd April 2009 Senior Building Control Surveyor, Richard Windust, stated *“...Please note that due to the Application being in the form of a Building Notice, no Completion certificate can be issued. However, this letter can be accepted as formal notification to this effect...”* This letter is submitted with this application as **Document 1**. It is a matter of fact, therefore, that the conversion of the building known as Sycamore Barn to provide separate residential accommodation was completed in 2009.

From May 2009 the applicants commenced letting out Sycamore Barn as a self-contained unit of residential accommodation to holiday makers for short breaks. This was offered on the market as a self-catering unit and was occupied independently of No.6 Church Lane. The holiday let use ceased on 23rd of March 2015. **Document 2** and **Document 3** submitted with this application are the Statutory Declarations of Mr Ian Paul Jarvis and his wife Mrs Jose Jarvis. Both Mr and Mrs Jarvis swear, in their Declarations, that between May 2009 and 23rd March 2015 Sycamore Barn was “was let out as a unit of self-contained holiday let accommodation.”

From 10th April 2015 to the present day the applicants let Sycamore Barn out to Mr Graham Leslie Wright and his wife Mrs Denise Maureen Wright. Mr and Mrs Wright have occupied Sycamore Barn since 10th April 2015 as a self-contained dwelling that is their sole place of residence. **Document 4** and **Document 5** submitted with this application are the Statutory Declarations of Mr Wright and Mrs Wright. Mr and Mrs Wright confirm in their Declarations that they have occupied Sycamore Barn as a self-contained dwelling *“...for longer than 4 years before the date of the submission of this application for a certificate of lawfulness...”* They also state that they have a Tenancy Agreement. A copy of the Assured Shorthold Tenancy Agreement, dated 10th April 2015 is submitted with this application as **Document 6**.

In addition to the evidence submitted as Documents 1 to 6 the applicants also submit:

- A copy of Mr Jarvis’s NatWest bank statement for the period 1 May 2015 to 29 May 2015 (**Document 7**);

- A copy of an email dated 1st March 2015 from British Telecom relating to the transfer of their telephone and broadband services from their previous address (Flat 10, Westbury Lodge, Queens Lane, Arundel, BN18 9RZ) to Sycamore Barn (**Document 8**);
- Copies of BT telephone/broadband bills from 28/11/18; 13/01/19; 13/02/19; 13/03/19; 13/04/19; 13/05/19; 13/06/19 (**Documents 8A to 8G**);
- A copy of a “Landlord/Home Owner Gas Safety Record” (Serial No. B531296) dated 6th March 2015 (**Document 9**);
- A copy of a letter regarding Household Insurance from Source Insurance Limited dated 6th May 2015 – Ref: I- 4674315-350788 (**Document 10**);

Finally, a further Statutory Declaration is made by Jill Sander (**Document 11**) who confirms that she has known Sycamore Barn “...to be occupied since 10th of April 2015 to the present day by Mr and Mrs Wright...”

Given the content of Documents 2 to 11 it is considered as a matter of fact that Mr and Mrs Wright have occupied Sycamore Barn, since 10th April 2015, as a self-contained dwelling that is their sole place of residence.

When considered in the context of *Gravesham Borough Council v Secretary of State for the Environment (1982) P&CR 142* it is clear that Sycamore Barn accommodates all of the required facilities that “afford to those who used it the facilities required for day-to-day private domestic existence.” Consequently, it is considered that Sycamore Barn can be considered to comprise all of the constituent parts that make up a “dwelling house”.

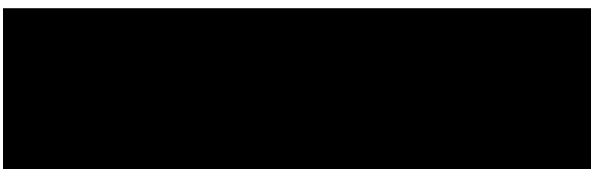
When considered in relation to Section 171B (2) of the Town and Country Planning Act 1990 (the ‘time for enforcement action’) it is apparent that the change of use of the application building to use as a self-contained dwellinghouse first occurred on 10th April 2015. As more than 4 years have passed since this date the Local Planning Authority cannot instigate an enforcement action seeking a cessation of the use of Sycamore Barn as a self-contained dwelling. Furthermore, as there are no planning conditions, pursuant to any grants of planning permission seeking to control the use of this building, it is not necessary to consider whether the longer period of 10 years has passed since the breach first took place.

It is clear from the documentary evidence submitted with this application that Sycamore Barn has been occupied as a self-contained dwellinghouse for a period in excess of 4 years before the date of the submission of this lawful development certificate.

The evidence submitted demonstrates, on the balance of probability, that there was a material change of use of the application building on 10th April 2015 to use as a self-contained dwellinghouse. The occupation of the application building has been independent of 6 Church Lane. Since 10th April 2015 Sycamore Barn has been occupied as a separate dwellinghouse – for a period in excess of 4 years.

It is concluded, therefore, that a certificate for the use of Sycamore barn as a self-contained dwellinghouse should be issued by the Local Planning Authority.

Yours faithfully,



Matthew R. Pickup

BSc(Hons)., DMS., MRTPI

List of Documents

- Document 1 - ADC Building Regs Letter dated 03 04 2009**
- Document 2 – Ian Paul Jarvis Statutory Declaration - 28 08 2019**
- Document 3 - Jose Jarvis Statutory Declaration - 28 08 2019**
- Document 4 – Graham L. Wright Statutory Declaration - 28 08 2019**
- Document 5 – Denise M. Wright Statutory Declaration - 28 08 2019**
- Document 6 - Assured Shorthold Tennancy Agreement**
- Document 7 - NatWest Bank Acct Statement -1-05-2015-29-05-2015**
- Document 8 - British Telecom - Service Transfer Email - 01 03 2015**
- Document 8A - YourBTbill_28112018**
- Document 8B - YourBTbill_13012019**
- Document 8C - YourBTbill_13022019**
- Document 8D - YourBTbill_13032019**
- Document 8E - YourBTbill_13042019**
- Document 8F - YourBTbill_13052019**
- Document 8G - YourBTbill_13062019**
- Document 9 - Gas S Document 10 - Source Insurance Limited - Home Ins Letter 06 05 2015 afety Record - 06 03 2015**
- Document 11 - Statutory Declaration - Jill Sander - 28 08 2019**