

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/95/20/CLE

LOCATION: Pennicotts Farm
Pagham Road
Pagham
PO20 1LN

PROPOSAL: Lawful development certificate for the existing use of building as 2 No. separate self-contained dwelling houses.

DESCRIPTION OF APPLICATION

This application is for a Certificate of Lawfulness for the existing use of building as 2 separate self-contained dwelling houses. The "side" house ('No 2') utilises the side entrance porch, and has a lounge, dining room, kitchen and conservatory on the ground floor, with two bedrooms and a bathroom at first floor level. Each house has its own area of private amenity space to the side and rear of the building, with direct private access from rear/side doors.

SITE AND SURROUNDINGS

The site is located off a private access road off the Pagham Road, just to the south of its junction with Lower Bognor Road.

The property is a Grade II Listed farmhouse known as Pennicott's Farmhouse. The two storey building has its main frontage facing onto an unnamed access road with the main entrance porch in the centre. Attached to the northern side of the main building are several single storey brick elements with pitched roofs and glazed conservatory in line with the front elevation. The property has a small front garden bounded by a low level flint wall. The rearward wing of the building is two storey as well with a series of single storey structures with mono-pitch roofs attached to its southern side. The additions to the side include another brick porch and entrance door, accessed by a path and gap through the southern boundary wall.

RELEVANT SITE HISTORY

There is not relevant planning history of this site. Pennicotts Farm was listed on 20th September 1984.

REPRESENTATIONS

Representations Received:

No objection.

Comments on Representations Received:

This application is restricted to test the legal merits of what is being applied for i.e whether Pennicotts Farm has been used as 2 separate self-contained dwellings for more than 4 years.

CONSULTATIONS

Consultations Responses Received:

ADC Solicitor:

The application dated 19 September 2020 claims that Pennicotts Farm has been used as two separate dwellings since the mid 1970's.

Following have been viewed:

- a. Supporting Statement
- b. Signed statement of Stephen Cox-Rushbridge dated 19 August 2020
- c. Various plans and photographs
- d. List of tenants occupying No 2 Pennicotts Farm from the mid 1970's
- e. SSE bill dated 26 May 2015 addressed to 2 Pennicotts Farm
- f. SSE bill dated 20 May 2015 addressed to Pennicotts Farm (different account number)
- g. Confirmation from SSE dated 14 April 2020 confirming that an electricity meter was installed on 9 December 2006 (it is not apparent from the email which property this relates to)

What information must accompany an application for a lawful development certificate?

Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the contents of an application and how it must be submitted. The application must be accompanied by sufficient factual information/evidence for a local planning authority to decide the application, along with the relevant application fee. Application forms can be obtained from the local planning authority and can be completed by the applicant or someone working on their behalf.

An application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning information may be justified in refusing a certificate. This does not preclude another application being submitted later on, if more information can be produced.

Paragraph: 005 Reference ID: 17c-005-20140306

Who is responsible for providing sufficient information to support an application?

The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining the application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

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.

Paragraph: 006 Reference ID: 17c-006-20140306

The Supporting Statement states the property was listed as a Grade II farmhouse in 1984. It explains the property has been used as two separate dwellings since 1975 when internal openings were blocked and

the accommodation was arranged to enable the use of property as two separate dwellings. The Statement confirms that No 2 Pennicotts Farm has its own front door utilising the side entrance porch of the building.

Stephen Cox-Rushbridge has submitted a statement dated 19 August 2020. He states that the property has been in his family for more than 100 years. Following the death of her husband in the late 1960's, his grandmother, Joan Rushbridge, lived alone in the property. From the late 1970's she rented parts of the property and the tenanted accommodated became known as No 2 Pennicotts Farm. Mr Cox-Rushbridge states that the properties were separate units and each had their own kitchen, living, bedroom and bathrooms which remains the same today.

In 1981 Mrs Rushridge moved into No 2 due to her failing health and Mr Cox-Rushbridge's parents moved into the main property.

Mrs Rusbridge died in 1987. The property was let to various tenants over the years, although there were no formal tenancy agreements. It is understood that No 2 was not registered as a separate entity and the owners relied on cash payments as rent to support the running of the farm. A separate electric meter was installed on 9 December 2006.

The last tenant was Peter Lamon/Tuck who occupied No 2 until 2015. At present the main property is occupied by Alex, brother of Stephen Cox-Rushbridge. The intention is to refurbish the properties, for Alex to move into No 2 whilst the main property will be rented out to assist financing the farm. A list of tenants has been submitted. There were a number of long term tenants from 1975 onwards although there is a gap between 1992 and 2000.

There are no other supporting statements.

It is for the applicant to provide sufficient evidence that No 2 has been a separate residential unit for the last 4 years. The PPG states that if a LPA 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.

Mr Cox-Rushbridge has submitted a comprehensive statement as to the history of the property. Normally accompanying bills, Council Tax or insurance documents would be provided for the separate unit. However, in this case it does not appear it has been occupied since 2015 and it is clear the property was not registered as a separate unit, there were no tenancy agreements and payment was in cash. I note there is no statement from Alex who is currently residing at the property. However, despite the evidence not being overwhelming does the LPA have any evidence itself or from others to contradict Mr Cox-Rushbridge's statement? If not, then I would advise the certificate be granted.

Comments on Consultation Responses:

Council does not have any evidence and no evidence has been received from public to contradict Mr Cox-Rushbridge's statement.

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.

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

"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."

Paragraph 006 (Reference ID: 17c-006-20140306) of the Planning Practice Guidance (PPG) states that: "The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

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."

Paragraph 009 (Reference ID: 17c-009-20140306) of the PPG points out that:

"A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

In determining an application for a prospective development under section 192 a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"

Section S171(1)-(3) and S191 TCPA 1990. The relevant time period is 19 September 2016 to 19 September 2020 i.e. 4 years to the date of the application.

CONCLUSION

It is for the applicant to provide sufficient evidence that Pennicotts Farm has been used as 2 separate self-contained dwelling houses for the last 4 years. Although the PPG states if a LPA 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.

As the ADC Solicitor concluded her comments:

Mr Cox-Rushbridge has submitted a comprehensive statement as to the history of the property. Normally

accompanying bills, Council Tax or insurance documents would be provided for the separate unit. However, in this case it does not appear it has been occupied since 2015 and it is clear the property was not registered as a separate unit, there were no tenancy agreements and payment was in cash. I note there is no statement from Alex who is currently residing at the property. However, despite the evidence not being overwhelming does the LPA have any evidence itself or from others to contradict Mr Cox-Rushbridge's statement? If not, then I would advise the certificate be granted.

As stated above the LPA have not any evidence or from other to contradict Mr Cox-Rushbridge's statement It is considered on the balance of probability that consent should be granted. It is therefore recommended that the certificate is granted in accordance with the following terms.

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 2 separate self-contained dwelling houses for a continuous period of 4 years.

FIRST SCHEDULE

Use of Pennicotts Farm as 2 separate self-contained dwellings.

SECOND SCHEDULE

Pennicotts Farm and No2 Pennicotts Farm, Pagham Road, Pagham, PO18 0JU.

EXTENT OF USE

The extent of use is that defined on the submitted Ground Floor and Elevations plan (1:100) relates to the use of Pennicotts Farm as 2 separate self-contained dwellings.

P/95/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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