

FROM:

Delwyn Jones Planning Solicitor
Resources Department
Tel Ext 737737
Dated 31 October 2017

TO:

Anita Gardner Planning Officer

REF:CLE/CLP CONSULTATION R/225/17/CLE

ADDRESS : Minstrels 6 West Mead East Preston BN16 2SL

NATURE OF OPERATION : an existing summer house.

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.

Query – is this PD under GPDO Schedule 2 Part 1 Class E ? see attachment to email
I don't have any dimensions to come to any conclusions – but I suggest you also explore this ie

Permitted development

E. The provision within the curtilage of the dwellinghouse of---

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

In any case I answer the CLEUD question below

**3.DETAILS AND TESTS UNDER SS 191 TCPA 1990 AND NPPG GUIDANCE ON
LAWFUL DEVELOPMENT CERTIFICATES[LDCs]**

(1) Time: SS171 (1)-(3) and S191 TCPA 1990

The application is for operations ie building a summerhouse so the time limit is 4 years under the above .

The time period is 9/10/17 to 9/10/13 ie 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: NPPG Guidance LDCs Part 3 Application and Determination

The evidence judged on a balance of probability and the above criteria is sufficient and is precise and unambiguous.

Para 3 NPPG says that “....if an LPA has no evidence itself ,nor any from others, to contradict or otherwise make the applicant’s version less than probable , there is no good reason to refuseprovided the applicant’s evidence alone is sufficiently precise and unambiguous”.

Para 3 in NPPG cited above 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.

There is no evidence of an extant enforceable Enforcement Notice issued and affecting the Land

The evidence analysis with comments is

Number	Item of Evidence	Comment
1	Application – alleges 10 years plus use – 2007 – 17	Probative and uncontradicted
2	Photos x 6 showing photos dated 2007 2011 including early construction and site clearance	Probative though query how you establish dates but uncontradicted
3	Letters and statements x 7 Frake – known since 8 years and always seen summerhouse there Marnham – neighbour and friend 2006-2013 confirms summerhouse built in 2007 Smith – confirms summerhouse built in 2007 No 3 Westmead name deleted – known summerhouse present since 2013 Bowdery = confirms summerhouse built 2007 Lusty confirms summerhouse built 2007 Smith a applicants – submission letter	These are uncontradicted and probative

I suggest some further checks for you to conduct are :-

1. Aerial photos
2. builders invoices

The floor plan reveals – I think – a cooker and sink ? – which may be used as an annexe /dwelling – but there is no evidence or claim of its use as an independent dwelling and that would be subject to enforcement as a new and different use

I have suggested a reference to this in the terms of grant below

Come back if there is any further question

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 and dimensions etc even refer to a plan or photo as description
4. the use is as summerhouse only and there is no use as an independent dwelling

ref/lgdr/lprec/pl/cleudetcmmodelmem

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