

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

REF NO: WA/88/24/CLE

LOCATION: Potwell Park, Potwell Copse
Arundel Road
Fontwell
BN18 0QP

PROPOSAL: Lawful Development Certificate for the existing use of stables and barn as part office for the applicants construction business and an ancillary residential accommodation for family members.

DESCRIPTION OF APPLICATION

This application seeks a Lawful Development Certificate for the existing use of stables and barn as part office for the applicants construction business and an ancillary residential accommodation for family members.

SITE AND SURROUNDINGS

Single storey timber clad and brick plinth stable and barn approved in 2004 (WA/28/04 and WA/104/24) for personal use in association with Potwell Copse; situated to the south east of the site. The approved stables have been part converted into an office, and the rest of the stables and barn converted to residential use.

The site lies in a rural countryside location, accessed off Copse Lane. The locality comprises large areas of woodland, interspersed with residential properties set within large plots. There are farms also located to the east and west within the wider vicinity.

RELEVANT SITE HISTORY

WA/104/04/	New barn extension to stable yard	ApproveConditionally 04-02-05
WA/28/04/	New stables and associated out-buildings for private use by the applicant, new mixed native hedge	ApproveConditionally 24-05-04

Relevant site history noted.

REPRESENTATIONS

Representations Received:

Walberton Parish Council

No objection.

No representations received.

Comments on Representations Received:

Comments noted.

CONSULTATIONS

Consultations Responses Received:

None.

Comments on Consultation Responses:

ADC Council Tax were consulted but did not respond.

LEGISLATIVE BACKGROUND

Section 191 (4) 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 of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect and in any other case they shall refuse the application.

Sections 191 to 195 Town & Country Planning Act 1990 and NPPG guidance on CLE's have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

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.

S171(1)-(3) and S191 TCPA 90. The relevant time period is 10 years prior to the date of the application, i.e. 09/10/14 to 09/10/24.

CONCLUSION

The applicant has submitted the following evidence to support the application:

- Planning Statement
- General Statement from WGH Forecourts Ltd.
- Portsmouth Water Bills (dated 2010, 2011, 2012 and 2015)
- BT Bills (dated 2010, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024)
- Castle Water Bills (dated 2022, 2023)
- Southern Electric Bills (SSE) (dated 2010, 2012, 2014, 2015, 2016, 2017, 2020, 2021, 2022, 2023, 2024)
- Statutory Declaration (W Hislop dated 8 April 2024; P Bailey dated 8 April 2024; S Welch dated 5 April 2024; A Hislop dated 8 April 2024; R Hislop dated 2 May 2024)
- Plans and photographs

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. 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.

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.

The evidence provided demonstrates from Statutory Declarations and utility bills, that WGH Forecourt Building Services has operated from the stable block at Powell Copse from 2010 to the present day with continuous occupation spanning over 10 years. It is also evidenced from Statutory Declarations and utility bills that the rest of the stables and barn has been in continuous occupation by family members since 2012 as ancillary residential accommodation. It is clear from the evidence submitted that the evidence judged on a balance of probability is sufficient and is precise and unambiguous. The LPA has no evidence itself, nor from others, to contradict or otherwise make the applicants versions less than probable. There is therefore no good reason to refuse the application.

As such it is 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 stables and barn had been in use as part office and ancillary residential accommodation for a period of at least 10 years.

FIRST SCHEDULE

Use of the stables and barn as a part office for the applicants construction business and ancillary residential accommodation for family members.

SECOND SCHEDULE

Potwell Park, Potwell Copse, Arundel Road, Fontwell, BN18 0QP

EXTENT OF USE

Use of the stables and barn as a part office and ancillary residential accommodation for family members as shown on the following plans:

- Location site, existing floor plan and elevations DPA-01 Rev 03**
- Location and Site Plans, Existing Floor Plans and Elevations DPA-01 Rev 04**
- Elevations DPA-04 Rev 03**

WA/88/24/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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