

FROM:

Delwyn Jones Planning Solicitor
Resources Department
Tel Ext 737737
Dated 1 February 2017
Updated and revised 2 and 6 March 2017

TO:

David Easton Planning Officer

REF: WA/98/16/CLE CLE CONSULTATION

ADDRESS :

Cherry Tree Nursery Eastergate Lane Walberton BN18 0BA

NATURE OF USE :

Application for a Lawful Development Certificate for an existing use of land for siting of 1No residential mobile home.

1. UPDATE REASONS FOR

We met on Thursday 2 March to review the position in light of fresh and new evidence namely :-

1 aerial photos dated 2001,2007,2015 indicating no caravan[s] on plot 8 as claimed –this is contradictory evidence of the claim

2. No HB receipts for Mr Ling
3. No rent books, accounts, rent receipts , from any of the 3 tenants
4. No statements from any tenants
5. No EH records or licences or site visit notes

2, EFFECTS OF THE ABOVE

I think the effect of all or some of the above is to contradict the claim ----so that the evidence is ambiguous, imprecise , insufficient to prove the claim on balance of probability

I suggest you :-

Site visit to ascertain planning unit where caravan placed now

Visit EH/HB to inspect any files open to you

Invite the claimants to submit any evidence from the tenants as listed above or refuse due to :-

Lack of evidence

3. CONCLUSION

Refuse

10 years not proven on balance of probability

Evidence is contradicted by council evidence –aerial photos don't show caravans where claimed

Evidence is imprecise, ambiguous ,insufficient

I append previous advice dated 1 February 2017 so you can compare notes , but the new evidence is listed on file and you can follow up the enquiries with the applicants/tenants / council departments
thanks

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.

I have answered your question but rely on you to come back if you require more or further explanation.Thanks.

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 material change of use ie to storage /siting mobile home - so the time limit is 10 years under the above .

The time period is 17/11/06 to 17/11/16-ie 10 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 refuse provided 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.

The evidence analysis with comments is :-

A basic chronology is ;-

1990 Nursery bought by G Boucher

2000 Financial/other difficulties caused diversification including storage uses

This included storage /siting of caravan

2000 Bouchers family lived on site

This establishes a 10 years use

There is a related application for boat storage too – so the application is a cross reference of evidence to each type of use

Further evidence is analysed below :-

Number	Item of Evidence	Comment
1	Application – mobiles home on site since 2000	This appears only exact date given others say “over 10 years “
2	Planning statement Intro –	This is supplemented by up to 11 statements as below
	10 statements all corroborating claim	
	Visitors	Core evidence is mobile home son site frequent visits as friends or customers for 10 plus years
3	R Vine – at least 1 maybe more mobile homes used as residences not just storage	
4	Ddady- ditto	
5	JHoran- ditto	
6	JAyres – ditto	
7	ABaker – ditto	
8	MCole – ditto	
9	MAIbuery – ditto	All the above statements are pro forma – but are signed and aren’t contradicted so are probative on balance of probability
	Boucher family	
10	Gary Boucher Plan A shows mobile homes at plots 8,9 Plot 7 touring caravan Plot 8 From circa 2000 occupied by Mr Ling mobile home Then Simon Burford Up to circa 2015 Mobile home removed but then Mr Crossling Moved his mobile home there The access track was always present but was repaired then	The family all say – Mr Boucher owner since 1990 , 2000 diversified into storage of cars and boats , and sited mobile home on site ,
11	Doreen Boucher mother Plot 8 From circa 2001 occupied by Mr Ling mobile home who was paid benefits by ADC from circa 2004/5	

	Then Simon Burford Up to circa 2015 Mobile home removed but then Mr John Crossling Moved his mobile home there The access track was always present but was repaired then	
12	Richard Boucher father Plot 8 From circa 2001 occupied by Mr Ling mobile home who was paid benefits by ADC from circa 2004/5 Then Simon Burford Up to circa 2015 Mobile home removed but then Mr John Crossling Moved his mobile home there The access track was always present but was repaired then	In these accounts there may be some vagueness about where exactly the mobile homes were situate ----but the basic claim is somewhere at or near plot 8 on plan A or plan 1 And nothing contradicts this

Query ---check Housing Benefit records , if you can , for HB payments to Mr Ling
Query ---check Housing Environmental Health records , if you can , for inspections of premises for fitness

On balance of probability case proven for mobile home on plot 8

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. describe use as siting residential mobile home – used as residence
3. identify precise land boundaries on plan for extent of use
4. use scaled plan –for area and dimensions of mobile home
5. describe structure and its harsdstanding and other plot boundaries on land ---use photos to supplement descriptions
6. define any access routes and hardstandings

ref/lgdr/lprec/pl/cleudetcmmodelmem

ref