

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

REF NO: Y/50/26/CLE

LOCATION: Sheepfold
Bilsham Lane
Bilsham
Yapton
BN18 0JX

PROPOSAL: Application for certificate of lawfulness for existing use as a residential dwelling.

DESCRIPTION OF APPLICATION

This application seeks a Lawful Development Certificate for the existing use of a residential dwellinghouse.

SITE AND SURROUNDINGS

The site is a detached bungalow at Sheepfold, Bilsham Lane.

RELEVANT SITE HISTORY

Y/95/23/PL	Extension and alterations to existing dwelling and change of use of land to residential garden. This application is in CIL Zone 3 and is CIL Liable. (Departure to the local plan).	Withdrawn 16-01-24
Y/77/16/PD	Prior notification under Class Q for change of use from agricultural building to a single dwellinghouse (Class C3)	No Object'n + Conds 09-01-17

Relevant site history noted. Under the withdrawn Y/95/23/PL application it was discovered that the development had not been completed within the three year timeframe outlined under under Y/77/16/PD and the development was technically unlawful, with no enforcement action taken.

REPRESENTATIONS

Representations Received:

Yapton Parish Council

Yapton Parish Council - Object;

The unit is sited in a prominent position, in an open area where any development should be carried out with a special awareness, using sympathetic materials to reflect this important historical lane.

Comments on Representations Received:

Noted.

CONSULTATIONS

Consultations Responses Received:

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.

CONCLUSION

As works were completed before 25 April 2024, the residential dwellinghouse is assessed against the 2013 version of the Town and Country Planning Act 1990, Section 171B, which 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."

The relevant period is from 28 July 2022 to 28 July 2026, with the latter being the date of the application.

The applicant has provided a sworn statement and a tenancy agreement dated 2021 as evidence that the dwellinghouse has been in continuous residential use. The property was let from January 2021 to July 2021, after which the applicant occupied the address. The dwellinghouse has remained in continuous residential occupation since that time and is currently occupied by a relative of the applicant.

OFFICER'S COMMENTS

The evidence judged on a balance of probability is sufficient. The LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version less than probable, and indeed has some evidence which lends weight to the established nature of the development. On this basis, the use has been in existence for a period in excess of four years. The period within which the LPA could take enforcement action against this use has expired. There is therefore no good reason to refuse the application and 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 on the 28 July 2026, the building has been in residential use for a continuous period of 4 years.

FIRST SCHEDULE

The residential dwellinghouse as shown on the following plans:

Site Plan 007-800

Supporting Information

Planning Statement

SECOND SCHEDULE

Sheepfold, Bilsham Lane, BN18 0JX

EXTENT OF USE

Existing use of the dwelling as residential accommodation.

Y/50/26/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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