

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** Y/62/19/CLP**LOCATION:** Hoe Farm Cottage
Hoe Lane
Flansham
PO22 8NS**PROPOSAL:** Lawful development certificate for a proposed change of use from 2 bedroom self contained annex to Airbnb accommodation.**DESCRIPTION OF APPLICATION**

From the submitted documents it is not possible to ascertain whether the permission has been truly implemented. The approved drawings from October 2008 (Y/73/08) shows a large hipped roofed structure with an open plan sitting room, kitchen and sunken patio within a basement area and three bedrooms, bathroom, garage, inner porch, covered porch, inner store room and outer store room at the ground floor level. The approved has been for ancillary/guest accommodation to accommodate an extended family and the decision was accompanied by the condition 2:

The accommodation hereby permitted shall be occupied solely for purposes incidental to the occupation and enjoyment of Hoe Farm Cottage as a dwelling and shall not be used as a separate unit of accommodation.

Reason: To accord with policies GEN 3, GEN7 and DEV19 of the Arun District Local Plan and to prevent the establishment of an additional independent unit of accommodation which would not be permitted in the countryside.

There is no legal definition of an "Airbnb" as it ranges from a room in a property which is run as a bed and breakfast, to a villa with sole occupation. Therefore, there can be no lawful development to change the use from the current use to an "Airbnb". The application has been assessed against the need for permission for a holiday let.

RELEVANT SITE HISTORY

Y/73/08/	Conversion of domestic garage & part finished swimming pool extension (Y/37/05) to additional accommodation for extended family/guests	ApproveConditionally 24-12-08
Y/37/05/	Garage and swimming pool (Resubmission of Y/80/03)	ApproveConditionally 25-07-05

Y/80/03/	Garage & swimming pool	ApproveConditionally 22-01-04
Y/28/00/	Proposed two storey side extension & loft conversion	ApproveConditionally 07-07-00

REPRESENTATIONS

Representations Received:

CONSULTATIONS

Consultations Responses Received:

LEGISLATIVE BACKGROUND

The Application is for a Certificate of Lawful Development under Section 192 of the Town and Country Planning Act 1990 ("Section 192").

Section 192 of the Town and Country Planning Act 1990:

- (1) If any person wishes to ascertain whether:
- (a) any proposed use of buildings or other land; or
 - (b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

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.

- (3) A certificate under this section shall:
- (a) specify the land to which it relates;
 - (b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
 - (c) give the reasons for determining the use or operations to be lawful; and
 - (d) specify the date of the application for the certificate.
- (4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

The Planning Practice Guidance (PPG") states:

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. There is a different application form for each type of certificate, but either type 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 authority may be justified in refusing a certificate. This does not preclude another application being submitted later on, if more information can be produced.

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.

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.

The Town and Country Planning (General Permitted Development)(England) Order 2015 Schedule 2, Part 1 Development within the curtilage of a Dwellinghouse and Part 3 Change of use permit alterations to a Dwellinghouse, but do not grant planning permission for the change of use from an ancillary building to use as a separate use.

CONCLUSION

There is no requirement for a Certificate of Lawful Development if the applicant is simply going to allow paying guests to use the bedrooms, bathrooms and toilets whilst being fed in the main dwelling-house and if the real issue is to change the use of annexe into a separate dwelling it would not have been lawful for planning purposes to change the use from being a use incidental to the occupation and enjoyment of the main dwellinghouse to a separate dwellinghouse.

For the above reason Planning Permission is required.

RECOMMENDATION

REFUSE

The Arun District Council hereby certify that on 16/07/2019 the development 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 considered to be development within the meaning of section 55 of the Town and Country Planning Act 1990 and was not considered lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reasons.

The proposal conflicts with S55 (2) of the Town and Country Planning Act 1990 in such that it constitutes

a material change of use and as a result is considered to be development which warrants express planning consent from the Local Planning Authority

FIRST SCHEDULE

Lawful development certificate for a proposed change of use from 2 bedroom self contained annex to Airbnb accommodation.

Section 55(2)(f) of the 1990 Act, within which the certified use falls.

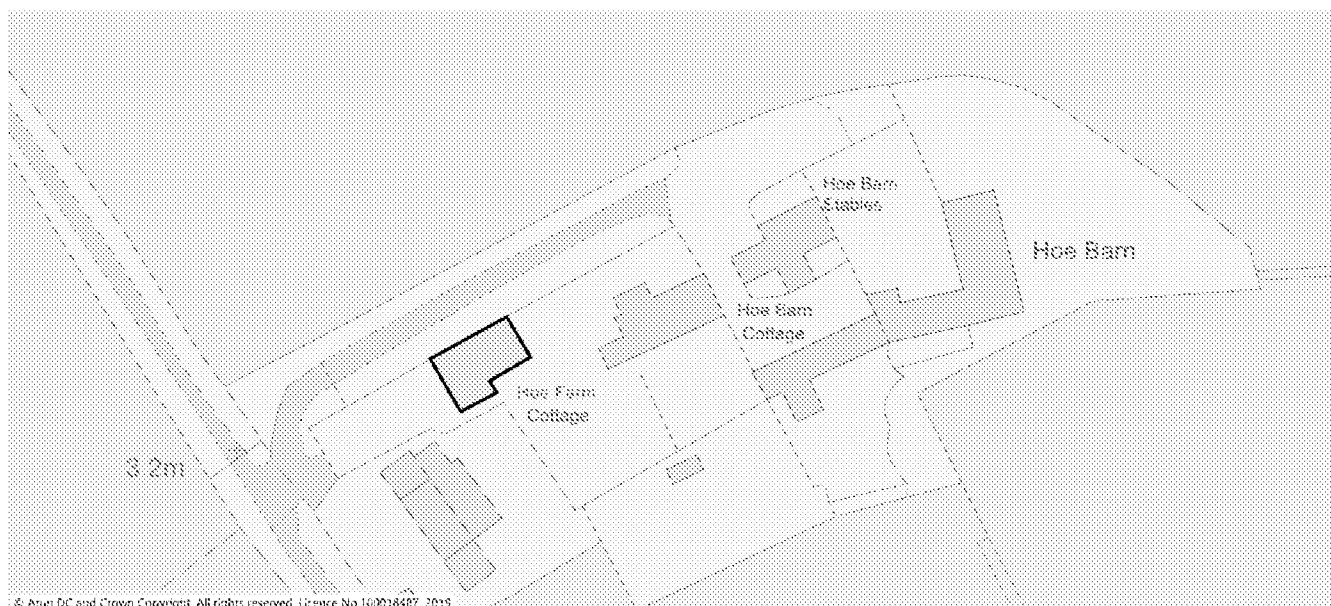
SECOND SCHEDULE

Hoe Farm Cottage, Hoe Lane, Flansham, PO22 8NS

EXTENT OF USE

Change of use from ancillary accommodation to Hoe Farm Cottage to Airbnb (holiday let) accommodation.

Y/62/19/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



Based on the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown Copyright.
 Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Arun District Council
 100018487. 2015