

FROM:

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TO:

J Chapman
Planning Officer
17 March 2009

REF:Y/77/08/CLE CONSULTATION

ADDRESS : FLAT 16 BILSHAM COURT BILSHAM ROAD YAPTON

NATURE OF USE :OFFICE IN ONE BEDROOM FLAT

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.

I refer to my previous confidential memo dated 12 March and now send you this open file version taking into account further information received .

Feel free to discuss face to face these aspects further if need be

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.

3.IS THIS EVEN S55 TCPA 1990 "DEVELOPMENT" ?

This may even not qualify as "development"

Use of part of a dwelling for an office provided that it is ancillary to the main C3 dwelling use is within S55(2) (d) TCPA 1990 and so exempt from control .

Accepted that a flat isn't a "dwellinghouse " per S336 but I think that conduct of business as an insurance agent as confirmed to me is such as to qualify .You tell me that [and you should check and get evidence of this] that no customers visit .If none do then this fortifies this point . It is neither A1 use with public callers nor B 1 use being of such a scale as to be

Significantly only one person complains about the use and a neighbour dispute is ongoing and relates to that

So if you agree the application should be granted in simple terms that it is established on balance of probability that the use is not development due to its limited scale and effect

This may be the simplest way of proceeding provided you know of nothing to contrary

4 .DETAILS AND TESTS UNDER SS 191 TCPA 1990 AND CIRCULAR 10/97 ANNEX 8

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

The application is for material change of use so the time limit is 10 years under the above

The time period is ie 20 November 1998 – 20 November 2008 ie 10 years to date of the application.

The evidence satisfies this test. For the record I believe that the flats were built under PP ref Y/90/90 and Y/18/92/B in circa 1992/93 though you should check the Planning History.

I have at this date seen no contradictory evidence of this position . I explain why below .

(2) Sufficiency of Evidence: para 8.12-8.22

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

Para 8.15 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 applicants own evidence is in a series of letters

1. Plans of Site and Internal

These are Sk 1 and SK 2 and one is scaled and other [internal plan] not

They are precise and detailed enough to be used for CLE

2. Letters

[1] on CLE file

Accountants letter is of weight as a professional letter but lacks any details about use but gives general evidence about use since 1994 , and the base being the address at No 16

Mrs Street confirms she worked for applicant from 1998 to circa 2001 ie 3 years

On face of it the movements and activities in evidence are unlikely to generate any activity beyond normal flat use

There is reference to a letter of permission from the landlords Southern Housing authorising this use .Ive not seen it but I suggest it could be helpful to prove a case and you should check at least its terms and the date

I suggest you should get a letter from applicant to describe his routine and methods of transacting business just to further verify

[2] Other Evidence

The applicant has personal stationery marked No 16

Council Tax and Electoral Roll should be checked to see whether they can confirm residence of the applicant .You say that CT verify that only applicant is resident

All this serves to confirm the exempt use as office ancillary to main use as dwelling and/or an established use since circa 1994

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 used etc being 1 bedroom used as office
4. limit persons in occupation at work 1 insurance agent plus part time secretarial support 2 days per week 0930 hrs to 1230 hrs
5. use of office for office work correspondence report writing and paperwork
6. limit hours ?
7. no business visitors

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