



## **DELEGATED APPLICATIONS - ASSESSMENT SHEET**

### **APPLICATION NO./ADDRESS:**

DC/25/0584

Sixacre Farm , Stane Street, Adversane, West Sussex, RH14 9JR

### **DESCRIPTION:**

Application to confirm the continuous use of dwellinghouse for residential (Class C3) purposes for a period in excess of ten years (Lawful Development Certificate Existing)

### **RELEVANT PLANNING HISTORY:**

BL/5/85	Erection of farm bungalow to replace mobile home (From old Planning History)	Application Permitted on 08.03.1985
BL/52/81	Site mobile home (From old Planning History)	Application Permitted on 31.07.1981

### **PLANNING ASSESSMENT**

The application seeks a Lawful Development Certificate (existing) to confirm that a breach of Agricultural Occupancy Condition 2 of Planning Permission BL/5/85 took place and has continued for a period in excess of ten years prior to the date of this application.

### **Relevant Legislation and Guidance**

Section 191(2) of the Town and Country Planning Act 1990 (TCPA) provides that *'for the purposes of this Act uses and operations are lawful at any time if-*

- a.) *no enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*
- b.) *they do not constitute a contravention of any of the requirements of any enforcement notice then in force.'*

The land and matters subject of this application are not subject of an extant enforcement notice, as such, there would be no automatic exemption from the grant of a certificate of lawfulness by virtue of the provisions of S.191(2)(b) TCPA 1990.

S.171B of the TCPA states:

- '(1) *Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.*
- (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.*

- (2A) *There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).]*
- (3) *In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.*
- (4) *The preceding subsections do not prevent—*
- (a) *the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or*
  - (b) *taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.'*

S.191(4) of the TCPA 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."*

Paragraph 006 of the relevant planning practice guidance (PPG) explains that the applicant is responsible for providing sufficient information to support an application. This paragraph, furthermore, explains that, in the case of applications for an existing use, if the authority holds no evidence itself, nor from any 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 a balance of probability.

Case law, furthermore, confirms that in the determination of an application for a certificate of lawfulness, the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the authority holds no evidence itself, or from others, to contradict or call into question the probability of the applicant's version of events there is no good reason to refuse an application.

### **The Permission**

The application dwelling was subject to planning application reference BL/5/85. Condition 2 attached to that permission required:

*The occupation of the dwelling shall be limited to a person solely or mainly employed or, having ceased employment, last employed in the locality in agriculture as defined in Section 290 of the Town and Country Planning Act 1971, or in forestry (including any dependents of such a person residing with him or her) or a widow or widower of such a person.*

*Reason: The site lies in an area where, in accordance with Structure Plan Policy, development unrelated to the essential needs of agriculture and forestry would not normally be permitted.*

### **The Test**

TCPA 1990 s191(1) provides that if any person wishes to ascertain whether:

- *Any existing use of buildings or other land is lawful;*
- *Any operations which have been carried out in, over or under land are lawful; or*
- *Any other matter, constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful;*

*he may apply to the local planning authority specifying the land and describing the use, operations or other matter.*

*If on such an application, the local planning authority is satisfied with the lawfulness of the use, operations, or other matters described in the application, or that description as modified or substituted by them, it shall issue a certificate or refuse the application.*

The Act provides that in respect of a failure to comply with any condition or limitation subject to which planning permission has been granted, any matter constituting such a failure is lawful at any time if:

- (a) The time for taking enforcement action in respect of the failure has expired; and
- (b) It does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

### **The Applicants' Evidence**

Proof of Address:

- NJA-3: Tax return details for Mr and Mrs Bone showing their address at Six Acre Farm.
- NJA-5: Letters from DWP to Mrs Bone dated 15 April 2013 and 16 March 2024, to her address at Six Acre Farm concerning her state pension.

Proof of employment:

- NJA-4: Gov.UK records of DES Bone Ltd, incorporated on 24 June 1996, with Mr and Mrs Bone being appointed Directors on that date. The Company was dissolved on 12 September 2023.
- Copies of Mr Bone's driving licence for the period 25 May 2011 – present giving his address as Six Acre Farm.

Company details:

- NJA-6: Screenshot of DES Bone website (Des Bone Pest Control | Pest Control Company)
- NJA-7: Screenshot of article from DES Bone website reporting sale of company in 2022 to Cleankill (Cleankill increases foothold in West Sussex | Des Bone Pest Control)
- NJA-8: Copy of Mr Bone's training record
- NJA-9: Illustrative pictures of work undertaken by DES Bone Ltd
- NJA-10: Pictures of vehicles owned by DES Bone Ltd
- NJA-11: Copies of pay slips for Mr and Mrs Bone 2017-2018
- NJA-12: Copies of pay slips for Mr and Mrs Bone 2019-2021

Statutory Declaration:

- Mr and Mrs Bone signed declaration confirming they first purchased the property in October 1999.

### **The Council's Evidence:**

The Council holds the following evidence relating to this certificate:

- Confirmation from the Electoral Register that Mr and Mrs Bone have been registered electors at the address for the last ten years.
- Confirmation from Council Tax that Sixacre Farm has been registered, for the purpose of Council Tax, to Mrs Anne Bone since 20.10.2000.

### **Public Representation:**

Three Questionnaires have been received stating the following:

- The owners have lived there over 20 years

### **Assessment of the Evidence:**

The Planning Statement, evidence provided, and Statutory Declaration confirms that the Applicants purchased the property in October 1999, and have lived at the property since that time without complying with condition 2 of the planning permission. The Applicants ran their own business, DES Bone Ltd, which

provided pest control services, until the company was sold in 2022, and the couple retired. They have therefore lived at the property for a period of over 10 years in breach of the aforementioned restrictive condition. The Council's own evidence confirms this, in that they have been registered for both Council Tax and the Electoral Roll at this property for over ten years.

### **Conclusion:**

In accordance with the provisions of S.191(4) TCPA, and in the absence of evidence to the contrary, it is therefore recommended that a certificate of lawfulness be granted to confirm the dwelling has not been occupied in accordance with the agricultural occupancy condition (condition 2) attached to permission approved under BL/5/85 for a continuous period in excess of 10 years.

### **Recommendation: Application Permitted**

#### **Reason:**

- 1 It has been demonstrated on the balance of probability that the dwelling (shaded in red on the plan **25566 / P100**) has been occupied as a dwellinghouse in breach of condition 2 of BL/5/85 for a continuous period in excess of 10 continuous years (up until the date of this application).

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#### **Plans list for: DC/25/0584**

<b>Plan Type</b>	<b>Description</b>	<b>Drawing Number</b>	<b>Received Date</b>
Location & Details plan	Existing Plans	25566 / P100	08.04.2025
Elevation plan	Existing Elevations	25566 / P101	08.04.2025
Supporting Statement		NJA/25/125	08.04.2025
Supporting Docs	Cover Letter	25/125	08.04.2025
Supporting Docs	Decision Notice	NJA 1	08.04.2025
Supporting Docs	Statutory Declaration	NJA 2	08.04.2025
Supporting Docs	Tax Return	NJA 3	08.04.2025
Supporting Docs	Reg of Companies	NJA 4	08.04.2025
Supporting Docs	DWP	NJA 5	08.04.2025
Supporting Docs	Website Details x 2	NJA 6 and 7	08.04.2025
Supporting Docs	Course Certification	NJA 8	08.04.2025
Supporting Docs	Works Undertaken	NJA 9	08.04.2025
Supporting Docs	Vehicles	NJA 10	08.04.2025
Supporting Docs	Payslip	NJA 11	08.04.2025
Supporting Docs	Payslip	NJA 12	08.04.2025
Supporting Docs	information - Mr and Mrs Bone	NJA 13	08.04.2025
Supporting Docs	Article from the British Pest Control Association Website	NJA 14	08.04.2025

### **DELEGATED**

Case Officer sign/initial Kate Turner Date: 03/06/2025

Authorising Officer sign/initial      Tamara Dale      Date: 01/08/2025