Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/24/1921

Homelands Farm Stables , Bines Road, Partridge Green, West Sussex, RH13 8EQ

DESCRIPTION:

Application to confirm use of two adjoining buildings as a single dwelling with ancillary accommodation on a date four years previous. Use of adjoining land as residential garden for a period in excess of ten years. Conversion of the Byre not in accordance with the plans approved by DC/09/1017 (Lawful Development Certificate - Existing)

RELEVANT PLANNING HISTORY:

DC/23/1850	Erection of farm vehicle/implement store. Demolition of horse walker and relocation and erection of replacement horse walker. Reconfiguration and enlargement of existing manege, relocation of washdown area, associated tracks, and formation of new pond for biodiversity	Application Permitted on 11.03.2024
DC/18/1638	Change of use of land to cross country equestrian training facility with associated jumps and landscaping	Application Permitted on 22.02.2019
DC/12/0742	Erection of tack room, office, client's rest room, changing room and facilities	Application Permitted on 12.10.2012
DC/09/1017	Conversion of disused cart shed to form groom's accommodation, relocation of tack room and store (approved under DC/07/0833) and enhancement of foaling boxes salvaged from the Atcost building to be demolished	Application Permitted on 18.08.2009

DESCRIPTION OF THE SITE

The application site consists of two buildings, the Byre and the Barn. The site lies to the south of a track which connects to Bines Road and appears to be part of the wider site know as Homelands Farm.

SCOPE OF APPLICATION:

This application is made pursuant to S.191 of the Town and Country Planning Act 1990.

A Lawful Development Certificate is sought for a number of elements:

1) To confirm use of two adjoining buildings as a single dwelling with ancillary accommodation on a date four years previous.
2) To confirm the use of adjoining land as residential garden for a period in excess of ten years.
3) To confirm the conversion of the Byre in its current design is now lawful.

PLANNING ASSESSMENT

The application relates to a Lawful Development Certificate Existing to confirm the continuous use of the building as a residential dwellinghouse.

Article (2) of Section 191 of the Town and Country Planning Act 1990 states:

"For the purposes of this Act uses and operations are lawful at any time if –

(a) no enforcement action may then 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 EVIDENCE:

Applicant's Evidence:

- *Location plan*
- *Block plan*
- *Existing Floor Plans and Elevations*
- *Previously approved plans*
- *Cover Letter*

  The two buildings marked 'The Barn' and 'The Byre' have been occupied as a single dwelling with ancillary grooms accommodation since 2013.

  The Applicant originally occupied the Byre in accordance with the planning condition imposed on planning permission DC/09/1017 as grooms accommodation. In 2013, without planning permission, he moved into the adjoining Barn (erected as a tack room, office, client's rest room, changing room and facilities under DC/12/0742) but continued using the kitchen in the Byre. Has therefore used both buildings together as a single dwellinghouse. The accommodation in the Byre continued to be used as grooms/visitor accommodation, the kitchen being used by both the occupiers of the Byre and the Applicant.

  The change of use of the land to form the garden took place shortly after the Applicant moved into the Byre. A Google Earth image from 2012 shows new hedging planted around the area, where this image was included in a letter taken from the 2012 planning application file.

  It has become apparent that the elevations of the Byre do not accord with the approved plans under DC/12/0742. The photographs included within the Cover Letter and associated with

DC/12/0742 indicate that in 2012, the Byre did not have the appearance of the approved plans and was not therefore converted in accordance with the permission.

- *Sworn Statement*

In November 2010, the Applicant moved into the building at the northern end of the building complex known as the Byre under lease. This building had been converted into grooms accommodation by the previous owner. When occupied by the Applicant, the building had an appearance and internal layout that differed from the plans originally approved under DC/09/1017, this has remained since the occupation by the Applicant.

In October 2012, the owners obtained planning permission for a new building to the south of the Byre to be used as a tack room, office, client's rest room, changing room, and facilities (DC/12/0742). The building was constructed over winter 2012/2013 and brought into use for its intended purpose.

In September 2012, it became apparent that the one-bedroom grooms accommodation was insufficient for the family's needs. The family moved to the Barn in late summer 2013. The two upstairs rooms were used as bedrooms and the ground floor space as lounge and office. There was already a bathroom as shown on the approved plans and the approved kitchenette was adapted to become the kitchen with kitchen cabinets, sink, fridge and microwave. The family did however continue to use the oven and hob in the Byre as one was not installed in the Barn.

Since moving into the Barn, the bedroom and living room in the Byre has not been used by the family and has been lived in by grooms that at various times have been employed on the farm. The accommodation is also used for grooms to stay over when there is an early morning start to travel competitions or to attend a sick horse at unsociable hours, and it is occasionally used by guests. The grooms have used the kitchen in the Byre so this space has been shared between the grooms accommodation and the Applicant's dwelling in the Barn.

The author recalls that in 2017 an Officer from the Council came to the site as a complaint had been made following an advert the Applicant had placed for holiday accommodation on the farm. Had been considering letting the grooms accommodation for this purpose (which at the time was vacant, although a friend was staying at the precise time of the Officer's site visit). The Officer saw all the accommodation in the Barn, including the bedrooms, and was aware that the Applicant was using the building residentially.

The Applicant purchased the property in November 2020.

From the first occupation on the Byre by the Applicant, the land to its west, east, and south-west has been used as residential garden. This land was fenced and planted with a hedge and the main area mown as lawn. The land to the west of the Byre accommodates the greenhouse and has been planted as an orchard, whilst to the east, the land accommodates the Klargester and oil tank.

For over 10 years, the barn has been the sole permanent residence for the Applicant and their family, and the curtilage has been used as residential garden in connection with that use. The bedroom and living room in the Byre have been used mainly by grooms that have at times been employed on the farm or have stayed overnight to be available in connection with their duties. The kitchen within that building has been used by the grooms as well as by the Applicant and their family.

The author believes that the evidence supplied clearly demonstrates the use of the planning unit as a dwelling and grooms accommodation with residential garden for a period in excess of 10 years. It is also shown that the Byre was not converted in accordance with the approved plans but that the breach occurred more than 10 years ago. As such, it is the Author's understanding that

the uses have been undertaken for the requisite periods and are now lawful by virtue of Section 191 of the Town and Country Planning Act 1990 (as amended).

Council's Evidence:

- *DC/09/1017 - Conversion of disused cart shed to form groom's accommodation, relocation of tack room and store (approved under DC/07/0833) and enhancement of foaling boxes salvaged from the Atcost building to be demolished*

  This planning permission related to the conversion of cart shed (now referred to as the Byre). The approved plans indicate an internal arrangement including lounge/diner, kitchen, bathroom, and bedroom. The planning approval was subject of condition 2 which states:

  "The barn conversion hereby permitted shall be used as grooms accommodation in connection with the equestrian business at Homelands Farm only.

  Reason: To enable the Local Planning Authority to control the use of the site and because other uses would be contrary to policy DC9 of the Horsham District Council Local Development Framework: General Development Control Policies (2007)."

- *DC/11/2600 - Minor material amendment to previously approved DC/09/1017 (Conversion of disused cart shed to form groom's accommodation, relocation of tack room and store) to retain the tack room/office in a revised position*

  This application related to the tack room positioned to the south of the converted building now known as the Byre. The Block Plan includes the annotation "Dwelling" in the position of he building known as the Byre.

- *DC/12/0742 - Erection of tack room, office, client's rest room, changing room and facilities*

  This planning approval relates to the building now known as the Barn, located to the south-east of the building known as the Byre. The approved floor plans show the accommodation to include visitors mess room/reception area, lockable veterinary and harness room, kitchenette, changing room on the ground floor, and summer storage for winter rugs and office on the first floor. This permission was subject of condition 7 which states:

  "The building hereby permitted shall be used solely in conjunction with the equestrian use of Homelands Farm as a whole and shall not be used separately from that equestrian use which was approved under application reference DC/06/2895.

  Reason: To maintain control over the development in the interests of amenity and in accordance with policy DC9 of the Horsham District Council Local Development Framework: General Development Control Policies (2007)."

  Condition 8 of the planning permission states:

  "The building hereby permitted shall be used solely for the uses shown on drawing no. HF3-01A Rev E (date stamped 23 August 2012) and not for any other purposes, unless otherwise agreed in writing by the Local Planning Authority by way of a planning application.

  Reason: To maintain control over the development in the interests of amenity and in accordance with policy DC9 of the Horsham District Council Local Development Framework: General Development Control Policies (2007)."

- *EN/17/0174 – Alleged breach of conditions 6 and 8 of DC/12/0742*

  Internal alterations were noted as part of the compliance site visit, which included 2no. bedrooms upstairs. It was concluded that these were used by family members and did not require planning permission as they were ancillary to the main house.

The compliance site photos show a kitchen/living/dining room, and bedrooms.

Section 191(4) of the Town and Country Planning Act 1990 states that:

"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…they shall issue a certificate to that effect; and in any other case they shall refuse the application."

F W Gabbitas v SSE and Newham LBC [1985] JPL 630 held that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the Local Planning Authority has no evidence of its own, or from 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 the "balance of probability".

PLANNING ASSESSMENT

S.191(2) of the Town and Country Planning Act 1990 (TCPA 1990) 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 of the requirements of any enforcement notice then in force.”

S.171 of the TCPA 1990 defines relevant time-limits for enforcement action. S.171B(3) concerns any breach of planning control other than the carrying out of physical operations (S.171B(1)) or the change of use of any building to use as a single dwellinghouse (S.171B(2)), and confirms that no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

S.191(4) of the TCPA 1990 confirms that if an Authority is provided with information satisfying itself of the lawfulness of matters described in an application made pursuant to S.191 at the time of the application, or a description as modified or substituted by it, they shall issue a certificate to that effect, and in any other case shall refuse the application.

S.191(5) of the TCPA 1990 confirms that any certificate issued pursuant to S.191 must, inter alia, specify the land to which it relates and describe the matters subject of the applications in question.

Paragraph 005 to the relevant Planning Practice Guidance1 confirms that an application for a Lawful Development Certificate must 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. The accompanying text to S.8 of the standard application form invites an application to fully describe each use of land for which a certificate of lawfulness is sought, and state which part of the land the use relates to.

Paragraph 006 to the Planning Practice Guidance confirms that the applicant is responsible for providing sufficient information to support an application, though, that an Authority may canvass evidence if it wishes and must share any relevant evidence held by the Authority in advance of a determination. In relation to a S.191 application if an Authority has no evidence itself, or from others, to otherwise contradict or otherwise make the applicant’s version of events less than probable, there

is no good reason to refuse the application, provided the applicants evidence is sufficiently precise and unambiguous to justify the grant of a certificate on a balance of probabilities.

1) Dwelling (referred to as The Barn)

The Sworn Statement of the Applicant provides a narrative surrounding the two buildings known as the Byre and the Barn. They are situated adjacent to each other and identified on the site location plan, as submitted with the application. From this statement the below timeline has been formed by the LPA.

- *November 2010*

  The applicant moved into the Byre, which had been converted into groom's accommodation by the previous owner. The appearance and internal layout of the Byre differs from that permitted under application reference DC/09/1017 but has not changed during the Applicant's occupation.

- *October 2012*

  Permission was granted through DC/12/0742 to erect a building used as a tack room, office, client's rest room, changing room and facilities. The building was constructed over winter 2012/2013 and is known as the Barn.

- *Late Summer 2013*

  The Applicant and their family moved into the Barn, using the two upstairs rooms as bedrooms and ground floor space as an office and lounge. There was already a bathroom and the approved kitchenette was adapted to become a kitchen, with kitchen cabinets, sink, fridge, and microwave. The Applicant asserts that they continued to use the oven and hob in the Byre as one was not installed in the Barn.

  Since the move into the Barn, the bedroom and living room in the Byre has not been used by the Applicant and their family, but has been lived in by grooms that at various times have been employed on the farm. The accommodation is also used for grooms to stay over when there is an early morning start or the need to attend to a sick horse. The grooms have used the kitchen in the Byre, so this space has been shared between the grooms accommodation and the dwelling in the Barn.

The Sworn Statement concludes that the barn has been the sole permanent residence for the Applicant and his family for over 10 years, and the curtilage has been used as residential garden in connection with that use. The bedroom and living room have been used mainly by grooms that have at times been employed on the farm or have stayed overnight to be available in connection with their duties. The kitchen within that building has been used by the grooms as well as by the Applicant and his family.

The subject building was originally constructed under planning permission reference DC/12/0742, where the approved plans indicated that the accommodation comprised visitors mess room/reception area, lockable veterinary and harness room, kitchenette, changing room on the ground floor, and summer storage for winter rugs and office on the first floor. This planning permission was subject of condition 8 which states:

> *"The building hereby permitted shall be used solely for the uses shown on drawing no. HF3-01A Rev E (date stamped 23 August 2012) and not for any other purposes, unless otherwise agreed in writing by the Local Planning Authority by way of a planning application.*

Reason: To maintain control over the development in the interests of amenity and in accordance with policy DC9 of the Horsham District Council Local Development Framework: General Development Control Policies (2007).”

This condition limited the use of the building for the purposes as shown on the approved plan, and specifically those previously mentioned. While internal alterations do not represent “development” the change to the accommodation provided within the subject building represents a breach of the planning condition. The relevant enforcement period is therefore 10 years from the date of the application.

No specific dates for the conversion of the subject building to accommodate bedrooms, office, lounge, and enlarged kitchen has been provided. It is however noted that the Sworn Statement outlines that the Applicant and their family moved into the Barn in late summer 2013. A compliance investigation from 2017 confirmed that the subject building included bedrooms, kitchen, and living area, with the site visit photographs confirming this to be the case. The Council hold no other evidence to contradict the assertion within the Sworn Statement that the building was converted for residential accommodation in 2013. It is therefore considered, on the balance of probability, that the building has been in use as a residential dwelling for a period in excess of 10 years from the date of the application.

The application asserts that the building known as the Byre has been used in conjunction with the Barn during its occupation and thereby forms part of the dwelling. It is therefore necessary to determine whether this building forms part of the dwelling known as the Barn.

The building known as the Byre was initially approved under planning reference DC/09/1017, where the permission was subject of condition 2 which states:

“The barn conversion hereby permitted shall be used as grooms accommodation in connection with the equestrian business at Homelands Farm only.

Reason: To enable the Local Planning Authority to control the use of the site and because other uses would be contrary to policy DC9 of the Horsham District Council Local Development Framework: General Development Control Policies (2007).”

As shown on the approved plans, the accommodation benefited from a lounge/diner, kitchen, bathroom, and bedroom. To this effect, the accommodation benefitted from all of the facilities required for day to day living, where the planning permission related to a residential dwelling, with the condition limiting occupation to grooms accommodation in connection with the equestrian business.

The Sworn Statement outlines that the Applicant continues to use the kitchen facilities, namely the hob and oven, within the Byre as these kitchen appliances are not available within the Barn. The Sworn Statement confirms that the Byre continues to be occupied by grooms employed within the equestrian business, as well as by guests, and is used for overnight accommodation in connection with the equestrian business when needed.

The Sworn Statement confirms that the building has continued to be occupied in accordance with condition 2 of planning permission reference DC/09/1017, where the evidence would suggest that it is primarily occupied by grooms associated with the equestrian facility. Whilst it is noted that the Sworn Statement outlined that the building is used by the occupants of the Barn for its cooking facilities, the occasional use of the kitchen facilities by the occupiers of the Barn would not amount to the amalgamation of the two units to a single residential dwelling and ancillary accommodation. It is also of note that it has not been explicitly stated which building is considered to be the primary dwelling and which is considered to be ancillary, albeit that this can be inferred from the Sworn Statement.

It is not therefore considered that it has been shown on the balance of probability that the two buildings on the site have been used as a single residential dwelling and ancillary accommodation for a period in excess of 10 years from the date of the application.

2) Residential Garden

The cover letter provides photos from 2012 and affirms that the land within the red edge on this photo has been used as residential garden by the Byre. The Local Planning Authority have been unable to identify the red edge on the photo.

The Sworn Statement of the Applicant outlines that the land to the west, east, and south-west of the Byre has been used as residential garden. It is outlined that this land was fenced and planted with a hedge, and the main area mown as lawn. The land to the west of the Byre accommodates the greenhouse and has been planted as an orchard, while the land to the east accommodates the Klargester and oil tank.

The Sworn Statement concludes that the curtilage has been used as residential garden in connection with the dwelling referred to as the Barn for a period of over 10 years. A Google Earth image from 2012 has been included within the Cover Letter, which it is stated shows a garden area adjacent to the subject building.

Google Earth images dating from 09.2012, 06.2013, 04.2015, 09.2015, 08.2018, 04.2020, 08.2020, 12.2020, and 03.2022 so an area of land to the west of the Barn enclosed and managed as garden land. This area of land is shown enclosed by hedging and is physically separate from the yard area to the east and south of the subject building. The Council hold no evidence to contradict that this area has not been used for residential purposes in association with the dwelling referred to as the Barn.

Based upon the evidence within the Sworn Statement and available from Google Earth, it is considered on the balance of probability that the area of land to the west and north of the Barn has been used for residential purposes for a period in excess of 10 years from the date of the application.

3) Byre Design

The Cover Letter includes three photographs date stamped by Horsham District Council as received on 17 April 2012 with planning reference DC/12/0742. This shows the building known as the Byre in the background, with the front elevation of the building visible. This consists of two sets of double doors and a row of windows. This elevation differs from the plans approved under DC/09/1017.

The Sworn Statement of the Applicant asserts that the elevational differences to the Byre were carried out before their ownership and have remained as such since their occupation.

The photographs date stamped 17.04.2012 show the front elevation of the barn, where these reflect the windows and openings currently present on the building. The evidence available indicates that these elevational changes have been in situ in excess of 4 years from the date of the application.

Recommendation: Split Decision

Lawful:

1 It has been demonstrated on the balance of probability that the building operations to the external elevations of the building known as The Byre, as outlined in blue on the attached plan, have been substantially complete for a period in excess of 4 years from the date of the application.

2 It has been demonstrated on the balance of probability that the land to west and north of the building known as The Barn, as outlined in green on the attached plan, has been used as residential amenity space in connection with The Barn for a period in excess of 10 years from the date of the application.

Unlawful:

1 It has not been demonstrated on the balance of probability that the two buildings known as The Byre and The Barn have been used as a single residential dwelling and ancillary accommodation, in breach of the condition 2 of planning approval reference DC/09/1017 and condition 8 of planning permission reference DC/12/0742, for a period in excess of 10 years from the date of the application.

DELEGATED

Case Officer sign/initial Alice Johnson Date: 27.03.2025

Authorising Officer sign/initial Tamara Dale Date: 27.03.2025

