Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1731
Home Farm, Partridge Green Road, Shermanbury, Horsham, West Sussex, RH13 8HA

DESCRIPTION:
Application to confirm the continuous use of an existing storage building for B8 purposes for a period in excess of ten years (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

DC/20/1264	Change of use of agricultural barn to Class B8 storage use	Application Permitted on 09.09.2020

PLANNING ASSESSMENT

The evidence supplied by an application for a Certificate of Lawfulness of Development (existing) must be sufficiently precise and unambiguous, on the balance of probabilities, to demonstrate that the building has been used in the manner described for a period in excess of 10 years. As such, in order to determine whether it is immune from enforcement action, the 10-year limitation period needs to be applied pursuant to Section 171B (3) of the Planning and Compensation Act 1991.

Section 191 of the Town and Country Planning Act (as amended by S10(1) of the Planning and Compensation Act 1991) states:

If any person wishes to ascertain whether-

a) any existing use of buildings or other land is lawful,
b) any operations which have been carried out in, on, over or under land are lawful, or
c) 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 make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

For the purposes of the 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.

If the local planning authority are provided with the 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, they shall issue a certificate to that effect. In any other case they shall refuse the application.

Under Section 171B (3) of the Town and Country Planning Act 1990, a lawful development certificate can be granted where there has been a breach of planning control consisting of a breach of a planning condition. No enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach of any given condition of a planning permission.

Paragraph: 006 Reference ID: 17c-006-20140306 of the NPPG states "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 statues 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".

This certificate of lawfulness application is seeking to demonstrate that the existing storage building has been used for B8 storage purposes for a continuous period of at least 10 years.

Applicant's Evidence

- Location Plan
- Block Plan
- Roof plan
- Elevation plans
- Floor plan
- Site photographs
- Planning Statement

Council's Evidence

- Planning History of the site.
- The Council's Revenue department record of Mr J D Kempley registered at Home Farm, Partridge Green Road Shermanbury RH13 8HA, for Council tax from 1.4.1993.
- Council's periodic aerial photos from 2001 to 2018 showing the C1 building in situ during that time period. However, it is difficult to establish the use of the building throughout that specified time period.
- Planning permission DC/20/126 for the change of use of agricultural barn to Class B8 storage use.

The applicant's planning statement provides explanation of the use of the storage building including the site surrounding and the level of traffic generated. The submitted statement, though not witnessed in the presence of a solicitor, states that the building has been in use for storage purposes since the applicant purchased the property in 2007.

An application to change the use of the application building was granted in September 2020 (DC/20/1264). The description of the application read: *'Change of use of agricultural barn to Class B8 storage use'*. Condition 2 attached to the permission states:

> ***Standard Time Condition****: The development hereby permitted shall begin before the expiration of three years from the date of this permission.*
>
> *Reason: To comply with Section 91 of the Town and Country Planning Act 1990.*

There is no evidence before the Council to suggest that the permission was not implemented. Whilst at the time of considering the application, the 2020 proposal was not described as 'retrospective', which is assumed to have been the case on the applicant's assertion that the use has been in situ since 2007, prior to the submission of this application. At the time, a site visit was not undertaken (owing to the 'lockdown' restrictions following the COVID-19 pandemic)- had one been undertaken, and the use confirmed to be retrospective, the description would have been altered and the condition not applied. Other conditions were applied to the permission, though none requiring the submission of further detail prior to the use taking place or conversion works starting.

Accordingly, on the basis on the information before the Council, the Local Planning Authority is satisfied that the 2020 permission remains extant, and the conditions attached to the permission remain enforceable. Though the submitted statement refers to building 'C1' only, the 2020 permission

relates to the entirety of the building. As such, the plan attached to the decision notice on this application therefore reflects the extent of the extant permission.

Conclusion

On the basis of the evidence submitted, the Local Planning Authority is satisfied that, on the balance of probability, the existing storage building has been used for B8 storage purposes for a continuous period in excess of ten years period prior to the submission of the application, and that the permission DC/20/1264 remains extant in addition to the conditions attached to this permission. Therefore, pursuant to Section 171B(3) Town and Country Planning Act 1990, the application for a Certificate of Lawful use is hereby granted.

Recommendation: Application Permitted

Reason:

1. It has been demonstrated on the balance of probability that the existing building (shown edged in red on the plan below) has been used for B8 storage purposes for a continuous period in excess of ten years period to the date of this application.

POSITIVE AND PROACTIVE STATEMENT
Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/24/1731
Schedule of plans/documents:

Plan Type	Description	Drawing Number	Received Date
Elevation plan		1/330 11	31.10.2024
Roof plan		1/330 12	31.10.2024
Elevation & Floor plan		1/330 10	31.10.2024
Location plan		1/330 13	14.11.2024
Block plan		1/330 14	31.10.2024
Supporting Statement	Planning	NONE	31.10.2024

DELEGATED

Authorising Officer sign/initial RHERMITAGE Date: 31.01.2025

PLAN


9.3m
PARTRIDGE GREEN ROAD
Pond
Richmond House
Home Farm
Tank
12.5m
Wagstaff Cottages
The Lake House
Fish Pond