Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1679
The Lodge , Polecat Lane, Copsale, West Sussex, RH13 9DJ

DESCRIPTION:
Application to confirm the continuous use of a holiday let as an occupied dwelling for a period in excess of ten years (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

DC/12/1642	Change of use from self contained annexe to a holiday let unit of accommodation and the erection of a single storey side extension following demolition of existing stable block	Application Permitted on 11.12.2012
DC/13/2180	Change of use of former agricultural buildings to single dwellinghouse	Application Refused on 09.01.2014

PLANNING ASSESSMENT

Background

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."

No part of The Lodge holding is subject of an enforcement notice, accordingly this application stands to be considered against S.191(2)(a).

The Planning Practice Guidance 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.

The Planning Practice Guidance further 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.

The submitted evidence:

- Energy bills dated: 03/06/2015, 04/06/2015, 17/04/2018, 04/03/2024.
- TV licence valid until: 31/10/2015, 31/10/2023.
- Water bills dated: 19/09/2023, 25/09/2015.
- Other household bills dated 12/07/2022, 21/08/2014, 12/04/2018, 08/03/2016.
- Land registry title showing the change in owner.
- Assured tenancy agreement dated 1/09/2014.
- Signed statutory declaration in which the applicant states they have lived at The Lodge on a continual basis since the 1st of September 2014. The declaration give details on the initial renting of the property and the eventual purchasing. It also specifies that at no time over the preceding 10 years had The Lodge been used as a holiday let.
- Four further signed letters have been provided (from 4 separate addresses within the District) which confirm that the applicant has lived at The Lodge since the 1st of September 2014 on a continuous basis, with 3 of the letters confirming that the property is the applicant's primary residence.

Council's evidence:

- Revenues response demonstrates the last use known to them was a holiday use for the property. Council tax has been paid, not in the name of the applicant, at the rate of a dwelling since the 15th of August 2014.
- Electoral Services have advised that the address (of the application) is not held on the register.
- The Council has no previous enforcement investigations at the site.
- Two responses to the Lawful Development Questionnaire have been submitted to the LPA. These confirm the applicant lives there on a permanent basis with one stating as from August 2016 and one for more than 10 years.

Assessment

The existing accommodation was granted planning permission under application ref: DC/12/1642. This permission entailed a change of use from ancillary 'annexe' accommodation to a holiday let. The holiday let benefitted from all the facilities required for independent day to day living and there was no dependency upon the adjoining main dwelling at Southbourne Court. This permission therefore created a dwellinghouse on the site. Condition 5 of the planning permission states: -

> *The accommodation hereby permitted shall be used for holiday accommodation only and for no other purposes (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, or in any provisions equivalent to that Class in any statutory instrument revoking or re-enacting that Order.*
>
> *Reason: Planning permission would not normally be granted for residential accommodation in this location however it is considered reasonable to make an exception in this instance to allow for holiday accommodation…..*

The above condition therefore restricted occupation of the dwellinghouse to 'holiday accommodation' only. In the absence of any definition within the condition, the meaning of 'holiday accommodation' is taken to mean short-term occupation as a secondary place of residence. This current application seeks a lawful development certificate to confirm that the accommodation has been occupied in the manner of a self-contained dwellinghouse contrary to the restrictions imposed by the above condition.

The application sets out that an Assured Shorthold Tenancy (AST) was entered into on 01.09.2014, with the accompanying information supporting the position that the dwelling has been occupied in this manner since. The Council holds no evidence to suggest that the dwellinghouse has been occupied as holiday accommodation, either intermittently or over a longer more sustained period of time. It is considered that use of the dwellinghouse as a primary residence would likely have commenced at the

time of the AST, with the subsequent freehold sale / purchase on 26.11.2019 a continuation of this. The signed letters and questionnaire responses similarly support the position that the dwellinghouse has been occupied continuously as a primary residence since 2014.

It has been demonstrated on the balance of probability that the building outlined in red on the attached plan has used as a self-contained dwellinghouse in breach of condition 5 of DC/12/1642 for a continuous period in excess of the required time period.

Recommendation: Application Permitted

Reason:

1. It has been demonstrated on the balance of probability that the building outlined in red on the attached plan has used as a self-contained dwellinghouse in breach of condition 5 of DC/12/1642 for a continuous period in excess of 10 years.

Plans list for: DC/24/1679
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		NONE	29.10.2024
Supporting Statement	Planning	NONE	29.10.2024
Supporting Statement		Signed Statutory Declaration	07.11.2024

DELEGATED

Authorising Officer sign/initial Guy Everest Date: 27.03.2025