Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/0510
Ridge Farm, Unit 7, Horsham Road, Rowhook, West Sussex, RH12 3QB

DESCRIPTION:
Application for the retention of open storage areas (Class B8) for a period in excess of ten years (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

DC/23/1962	Application to confirm the erection of building for log drying kiln and storage purposes and the installation of biomass boiler for a period in excess of four years (Lawful Development Certificate Existing)	Application 11.12.2023	Permitted on
DC/04/2090	Change of use of land and 4 workshop buildings for the storage of caravans and retention of earth bund	Application 17/11/2004	Permitted on
RW/70/03	Certificate of lawful development relating to the use of 4 buildings 5,6,7 & 13a for b1/b8 storage and distribution purposes Site: Ridge Farm Horsham Road Rowhook	Application 14.10.2003	Permitted on

PLANNING ASSESSMENT

The application relates to a Lawful Development Certificate to confirm a continuous use for the building shown in red edge on the plan marked 'Location/Block Plan' for Class B8 open storage purposes for a period in excess of ten years.

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."

Applicant's Evidence
- Location and block plan
- Statutory declaration from Andrew Fisher (Applicant)
- Planning statement

The Planning statement indicates that the wider site was a former farm complex and is now being used by several commercial businesses. It comprises of hardstanding areas and were used for open storage

areas of caravans between 2004 to 2016 and then for the open storage of logs to the north from June 2020.

Council's evidence

- Satellite imagery, dated 2001, 2007, 2012, 2018
- HDC Revenues
- HDC Compliance
- Representations and Parish comment received
- HDC Economic development
- Planning history of the application site

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".

Discussion

The applicant's statement of case and declaration indicates that the site has been used for B8 storage for a period in excess of 10 years, dating as far back as 2013, when they witnessed the use. The applicant having then taking over the use of the site, albeit for storage of wood fuel materials, opposed to former caravan storage. Application DC/04/2090 was granted on 17.11.2004 for 'Change of use of land and 4 workshop buildings for the storage of caravans and retention of earth bund'. The decision notice of this permission imposed no such use class restriction condition relating to the outdoor storage of the caravans, which states:

> *Caravan storage shall not take place anywhere on the site except within the areas marked on the approved plan…*

The annotated plan in question matches the site area highlighted in red submitted with this certificate, and also aerial photography dating as far back as 2007. Whilst the areas indicated on the submitted plans of this permission were granted B8 use under this permission, the intent of that application was for caravan storage only and was supported by condition 2 above, in addition to the description of the application. In regards to this current assessment, the applicants have not demonstrated that the areas indicated were in use for 10 years for general B8 storage, effectively in breach of the 2004 permission. This planning history evidence is supported by the declaration of Mr Andrew Fisher who states that they have only been on site since 2016, when the use of the storage area presumably changed.

Conclusion

Evidence from the Council's Compliance investigation and planning history confirms that it is not likely that the area as outlined on the Location/Block plan was used as general B8 open storage for an excess of ten years.

The responses received from the representations, Parish, Council Elections Teams neither corroborates nor disputes the use of the site over this period.

The evidence available indicates that that on the balance of probability, the area indicated on the Location plans had not been used for general B8 open storage purposes for at least 10 years. A Lawful Development Certificate can be refused on this basis.

Recommendation: Application refused

1 It has been not demonstrated that the open storage area within the red edge has been used for general B8 Storage purposes for a continuous period in excess of 10 continuous years.

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/24/0510

Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Location & Block plan		SD-2344-400 REV B	02.04.2024
Supporting Statement	Planning	NONE	05.04.2024

DELEGATED

Case Officer sign/initial Hannah Darley Date: 31/05/2024

Authorising Officer sign/initial RHERMITAGE Date: 31.05.2024