Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/25/0884
Butlers Ghyll Farm, Jackrells Lane, Southwater, Horsham, West Sussex, RH13 9DH

DESCRIPTION:

Application to confirm the continuous use of the dwellinghouse without complying with the Agricultural Occupancy Condition for a period in excess of ten years. (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

SQ/82/88	Agricultural dwelling and garage (From old Planning History)	Application Permitted on 09.09.1988
HR/160/85	Erection of farmhouse, farm buildings and vehicular access Comment: Outline (From old Planning History)	Application Permitted on 04.09.1985
HR/234/85	Vehicular access Comment: Outline (From old Planning History)	Application Permitted on 29.11.1985

ASSESSMENT

This application seeks a Lawful Development Certificate (Existing) to confirm that a breach of the Agricultural Occupancy Condition 6 of Planning Permission SQ/82/88, 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 subject of this application is 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 –*

(a) in the case of a breach of planning control in England, ten 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 –

(a) in the case of a breach in planning control in England, ten 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.'

The Planning Practice Guidance (PPG) on Lawful Development Certificates 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 form 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 Test

TCPA 1990 S.191(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

ASSESSMENT OF EVIDENCE

Applicant's Evidence

- Location Plan - D 1224/725/1B
- Block Plan - D 1224/725/02
- Decision Notices for HR/160/85, HR/234/85 and SQ/82/88
- Cover Letter
- Elevations for the dwelling and garage/workshop
- Floor plans for the dwelling and garage/workshop
- Supporting Statement

- Statutory Declaration – Rowan B.Allan
  This declaration is made by Rowan Allan, the agent on behalf of HJ Burt, who confirms they were the agents for the previous owner Mrs Elizabeth Ford, until the property was sold on 21st April 2015 and for the current owners, Southern Cranes & Access Ltd, from the date of purchase 21st April 2015 to the end of the tenancy 6th December 2024. This declaration confirms tenants from 6th March 2015 to 6th December 2024 were John Hugh Jardine, Clare Joanne Willcocks and Daniel John Willcocks, who did not derive their income from agriculture during the time they occupied the dwelling.

- Statutory Declaration – Clive Sadler, of Southern Cranes & Access Ltd
  Clive Sadler confirms they have been the owner of Butlers Ghyll since 21st April 2015, who leased the property from 21st April 2015 to 6th December 2024, to the tenants listed above. Sadler confirms to their knowledge; they did not derive their income from agriculture.

- Tenancy Agreements
  This Tenancy Agreement is initially dated 6th March 2015, between the Landlord Elizabeth Nancy Ford, the Tenant John Hugh Jardine and the Agent H.J Burt. This agreement is for the term of 12 months from 06th March 2015 to 05th March 2016.
  A further agreement is supplied, dated 06th October 2015, between the new Landlord Southern Cranes & Access Ltd, for the period 06th October 2015 to 06th October 2016. Subsequent agreements covered the period between October 2016 to October 2023. A letter from the agent confirming notice to vacate the premises has been received, with the tenancy agreement finishing on Friday 6th December 2024.

- Appendix NJA05 – A signed letter by Mr John Jardine.
  This letter, from John Jardine themself, confirms that they occupied the property between 6th March 2015 and 6th December 2024, along with Clare Willcocks and Daniel Willcocks. This letter states they initially leased the property from Mrs E Ford, before it was sold, and they have never been involved in agriculture.
  Alongside this document, an electricity bill dated 06th March 2015 to 02nd April 2015 has been supplied, in Mr John Jardine's name and under the address of Butlers Ghyll. An electricity bill from EDF has been supplied, again under the same name and address, for the period 13th November 2024 to 17th December 2024. Finally, a Council Tax bill for the period of 01st April 2024 to 31st March 2025 has been supplied, under the name of Ms Claire Willcocks for the same address.

- Appendix NJA06 – A signed letter by Mr Clive Sadler, director of Southern Cranes & Access
  This letter confirms that the company leased the property at Butlers Ghyll, Southwater, via HJ Burt estate agents, from 21st April 2015 until the lease ended on 6th December 2024. The tenants, John Jardine, Clare Willcocks, and Daniel Willcocks were already leasing the property prior to the purchase. None of them were involved in agriculture: John was retired, Clare was a self-employed caterer, and Daniel was a landscape gardener.

- Appendix NJA07 – A signed letter by Rowan Allan.
  This letter is on behalf of the agency who acted as the letting agents for Southern Cranes & Access Ltd from their purchase of the property on 21st April 2015 until the tenancy ended on 6th December 2024. They had also represented the previous owner, Mrs. Elizabeth Ford. Allan confirms the most recent tenants and their employment status, John Hugh Jardine (retired), Clare Joanne Willcocks (self-employed caterer), and Daniel John Willcocks (landscape gardener), none of whom were involved in agriculture.

- Companies House – Jardiner Ltd
  This evidence, dated 02/06/2019, from Companies House, details Mr Daniel John as being the Company Director of Jardiner Ltd. Daniel John's occupation is listed as a Gardener.

- HMRC Tax Correspondence – Ms C Willcocks
  A number of letters relating to Ms C Willcocks Tax Calculations are provided, including:
  1) Cover Letter from HMRC, explaining Self-Assessment Tax Calculations are enclosed within the letter.
  2) Letter from HMRC, detailing Ms C Willcocks employment history for the tax year 2022 to 2023. The Employer is listed as Definitive Security Services.
  3) Ms C Willcocks Tax Calculation for Self-Employment, year 2016 to 2017
  4) Ms C Willcocks Tax Calculation for Self-Employment, year 2017 to 2018
  5) Ms C Willcocks Tax Calculation for Self-Employment, year 2018 to 2019
  6) Ms C Willcocks Tax Calculation for Self-Employment, year 2019 to 2020
  7) Ms C Willcocks Tax Calculation for Self-Employment, year 2020 to 2021
  8) Ms C Willcocks Tax Calculation for Self-Employment, year 2021 to 2022

- Signed Letter – A signed letter by Rowan Allan.
  This letter, dated 24th October 2025, follows on Allan's Statutory Declaration dated 15th May 2025. The letter explains that although the Assured Shorthold Tenancy formally ended on 6 December 2024, the tenant retained control of the property for several months afterward due to the amount of possessions and equipment. As the tenant could not afford further rent, the security deposit was used to cover this period. The property therefore remained under the same occupiers' control for at least 10 years, with continuous non-farming occupation prior to Mr. Jardine and his family taking on the tenancy on 6 March 2015.

Council's Evidence

- Consultation Response - HDC Planning Compliance:
  Comments received.

- Consultation Response - HDC Democratic Services:
  Confirms there are no registered electors in 2015, but Eleanor Burt between was registered at the address between 2016 to 2018. Daniel Willcocks was registered at the address in 2018. There are no registered electors between 2019 to 2025, with no one currently registered at the property.

- Consultation Response - HDC Revenues and Benefits Department:
  The property was first registered in 1994, with the current owners Southern Crane and Access Ltd.
  Verbal consultation – Property is marked as being empty since 30th November 2024.

- One Lawful Development Certificate Response received: No knowledge of the site or occupants.

- Southwater Parish Council: Objection
  This is now treated as a new application for residential use and is outside of the built-up boundary in Southwater.

- Sales Particulars for the property and land, dated March 2015.

- Planning Applications - SQ/82/88, HR/160/85 and HR/234/85.

The Balance of Probability

This application seeks to confirm that a breach of the Agricultural Occupancy Condition 6 of Planning Permission SQ/82/88, took place and has continued for a period in excess of ten years prior to the date of this application.

Evidence of Continuous Occupation
As part of the supporting documents provided by the applicant, Statutory Declarations by Rowan B. Allan and Clive Sadler, witnessed and signed by a solicitor, confirm that tenants John Hugh Jardine, Clare Joanne Willcocks and Daniel John Willcocks, resided at the property from 6 March 2015 under the previous landlord, Elizabeth Ford. The Tenancy Agreement for this period supports this. Following the sale of the property, Clive Sadler of Southern Cranes & Access Ltd became the new landlord from 21 April 2015, continuing until the termination of the tenancy on 6 December 2024. Mr John Jardine has also confirmed, via a signed letter, that they lived at the property with the other occupants during this time. Supporting documents include an electricity bill from March 2015, an energy bill dated November 2024, and a Council Tax bill for the period beginning April 2024. The Council has no reason to doubt the statements and evidence provided, which confirm the tenants resided at the property throughout this period.

Evidence of Non-Agricultural Use
As part of the applicant's evidence relating to employment, Mr John Jardine confirmed in a signed letter (Appendix 5) that they, along with the other occupants, have never been involved in agriculture. Additional letters from Clive Sadler (Appendix 6) and Rowan Allan (Appendix 7) also state that, to their knowledge, none of the tenants worked in agriculture. This is further supported by the Statutory Declarations. Sufficient evidence from HMRC relating to the employment of Clare Willcocks has been provided, confirming that they were self-employed during their time of occupancy at the property and evidence relating to Daniel John Willcocks employed as a Gardener has also been received.

While no additional evidence has been submitted, such as payslips, P60s, or employment contracts for John Jardine, the Council has no reason to doubt the statements provided, and there is no evidence to the contrary.

Duration of Breach
The main issue in this application is whether the agricultural occupancy condition (Condition 6 of SQ/82/88) has been breached for more than ten years. The evidence originally submitted under this application confirms that the tenants occupied the property from 6 March 2015 to 6 December 2024, most notably via a signed statement by Mr John Jardine. This indicates a breach lasting nine years and nine months, short of the required ten-year period. The Council's Revenues and Benefits Department has confirmed the property has been marked as empty since 30 November 2024.

A further Supporting Statement has been supplied by the Estate Agent, Rowan Allan, who details although the Assured Shorthold Tenancy formally ended on 6 December 2024, the tenant retained control of the property for several months afterward due to the number of possessions and equipment. As the tenant could not afford further rent, the security deposit was used to cover this period. The property therefore remained under the same occupiers' control for at least 10 years, with continuous non-farming occupation prior to Mr. Jardine and his family taking on the tenancy on 6 March 2015.

The above document contradicts that from the evidence originally supplied under this application and was supplied by the applicant after being informed that the original evidence only demonstrated that the occupancy condition had been breached for a period of 9 years and 9 months, introducing uncertainty and raising questions about the validity of the above document. The late submission of this explanation, unsupported by evidence (e.g. correspondence confirming continued possession, utility statements, or estate agent inspection logs), limits the weight that can reasonably be given to it.

Section 191(4) of the Town and Country Planning Act 1990 is explicit in stating that a certificate of lawfulness be refused if the Local Planning Authority is not satisfied of the lawfulness of the use based on the information provided. Additionally, case law including F W Gabbitas vs SSE and Newham London Borough Council [1985] JPL 630, emphasises that while corroborating evidence is not essential, the evidence must still be precise, unambiguous and persuasive. Whilst the Council is not in possession of evidence to counter that supplied by the applicant, the evidence provided is not suitably unambiguous and precise enough to justify the granting of the certificate on the balance of probability and therefore fails the tests of the Planning Practice Guidance, Paragraph 006.

Conclusion

In accordance with the provisions of Section 191(4) of the Town and Country Planning Act, and due to the lack of sufficient and compelling evidence to demonstrate non-compliance with the agricultural occupancy condition (Condition 6) attached to planning permission SQ/82/88 for a continuous period exceeding 10 years, it is recommended that the application for a certificate of lawfulness be refused.

Recommendation: Application Refused

Reason(s) for Refusal:

1. It has not been demonstrated on the balance of probability that the dwelling, outlined in red on the Location Plan, has been occupied as a dwellinghouse in breach of condition 6 of SQ/82/88, for a continuous period in excess of 10 continuous years from the date of the 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/25/0884
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Docs	Statutory Declaration - Rowan B. Allan		28.05.2025
Supporting Docs	Statutory Declaration - Clive Sadler		28.05.2025
Supporting Statement	Supporting Statement	NJA/24/312	28.05.2025
Supporting Docs	Assured Shorthold Tenancy Agreements	NJA04	28.05.2025
Supporting Docs	Signed Statement - Mr John Jardine	NJA05	28.05.2025

Supporting Docs	Signed Statement - Mr Clive Sadler	NJA06	28.05.2025
Supporting Docs	Signed Statement - Rowan B. Allan	NJA07	28.05.2025
Floor plan	Existing Basement Plan	D 1224/725/03	28.05.2025
Floor plan	Existing Ground Floor Plan	D 1224/725/04	28.05.2025
Floor plan	Existing First Plan	D 1224/725/05	28.05.2025
Roof plan	Existing Roof Plan	D 1224/725/06	28.05.2025
Elevation plan	North and West Elevations	D 1224/725/07	28.05.2025
Elevation plan	South and East Elevations	D 1224/725/08	28.05.2025
Elevation plan	Elevations Garage Workshop	D 1224/725/09	28.05.2025
Floor plan	Garage Workshop Floor Plan	D 1224/725/10	28.05.2025
Location plan		D 1224/725/1B	28.05.2025
Block plan	Block Plan	D 1224/725/02	28.05.2025
Supporting Docs	Certificate of Incorporation of a Private Limited Company	NONE	18.08.2025
Supporting Docs	HMRC Self-Assessment Tax Calculation Letter	NONE	18.08.2025
Supporting Docs	HMRC Employment History Letter	NONE	18.08.2025
Supporting Docs	Ms C Willcocks Tax Calculation, 2016/17	NONE	18.08.2025
Supporting Docs	Ms C Willcocks Tax Calculation, 2017/18	NONE	18.08.2025
Supporting Docs	Ms C Willcocks Tax Calculation, 2018/19	NONE	18.08.2025
Supporting Docs	Ms C Willcocks Tax Calculation, 2019/20	NONE	18.08.2025
Supporting Docs	Ms C Willcocks Tax Calculation, 2020/21	NONE	18.08.2025
Supporting Docs	Ms C Willcocks Tax Calculation, 2021/22	NONE	18.08.2025
Supporting Docs	Signed Letter - Rowan Allan	NONE	27.10.2025

DELEGATED

Case Officer sign/initial Sam Nye Date: 17/11/2025

Authorising Officer sign/initial Tamara Dale Date: 27/11/2025