Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1644
The Boathouse, Palmers Barn, West Chiltington Lane, Coneyhurst, Billingshurst, West Sussex, RH14 9DN

DESCRIPTION:
Application to confirm the continuous use of a former agricultural barn as a single dwellinghouse for a period in excess of ten years (Lawful Development Certificate Existing)

RELEVANT PLANNING HISTORY:

BL/85/84	Conversion of barn to dwelling (From old Planning History)	Application 02.10.1985	Permitted	on
BL/110/96	Retention of mobile home Site: Palmers Barn West Chiltington Lane Coneyhurst	Application 08.01.1997	Refused	on
BL/111/96	Retention of underground structure Site: Underground House Palmers Barn West Chiltington Lane Coneyhurst	Application 08.01.1997	Refused	on
BL/112/96	Retention of pole barn & regularisation of residential curtilage Site: Palmers Barn West Chiltington Lane Coneyhurst	Application 08.01.1997	Refused	on
BL/18/97	Retention of mobile home Site: Palmers Barn West Chiltington Lane Coneyhurst	Application 04.04.1997	Refused	on
DC/06/1572	Change of use from agricultural access to residential access	Application 28.09.2006	Permitted	on

PLANNING ASSESSMENT

The application relates to a Lawful Development Certificate (Existing) to confirm the continuous use of the Woodstore building as a self-contained residential dwelling (Class C3) on a date four years prior.

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."

Summary of Applicant's Evidence

- Location Plan
- Planning Statement
- Statement 1: 10/09/2024
- Statement 2: 26/01/2024
- Statement 3: 11/10/2024
- Statement 4: 07/10/2024
- Statement 5: 14/01/2025

- Statutory Declaration: 30/09/2024
- Water Usage Recording – 2013- 2024
- Electricity Usage Recording – 2013-2024

Summary of Council's Evidence

- Consultation Revenues Team – Confirming No Persons Registered
- Neighbour Testimonies
- Aerial Photograph dated 2001, 2007, 2021 and 2018
- Application documents and site photographs

Discussion

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".

The entirety of the property known as 'Palmers Barn' was granted permission to convert into a residential use under application BL/85/84. The present certificate seeks to confirm that the converted dwelling provides for two separate units, comprising the northern half of the building (Palmers Barn) and the southern half (The Boat House).

The applicant has submitted several documents in support of the claim, including statutory declarations, sworn statements from tenants, utility records, and a planning statement. The statutory declaration from Mr. David Ball outlines tenancy periods for four individuals: Charlotte Bagwell (10 April 2013 to 26 May 2015), Chris Sweatman (26 May 2015 to 12 August 2017), James Hurtle (12 August 2017 to 28 November 2021), and Josh Dennison (28 November 2021 to present). The Oath of the applicant's solicitor, Mr. Julian Lee, also refers to these tenancies.

Mr. Hurtle has submitted a sworn statement confirming his period of occupation from 12 August 2017 to 28 November 2021. The evidence provided by Mr. Hurtle, along with the statutory declarations and other supporting documents, strongly suggests continuous residential use during this period.

The submitted utility records from 2013 to 2024 provide some support for the claimed use but lack verification from service providers. While verification would certainly strengthen the case, the absence of this does not diminish the weight of the sworn statement and statutory declarations that support the continuous use of The Boathouse.

The planning statement states that The Boathouse is physically and functionally separate from Palmers Barn, with its own entrance, parking, and facilities. This satisfies the physical independence test established in Gravesham BC v SSE (1984). Although physical separation alone does not establish lawful continuous residential use, it supports the applicant's case that The Boathouse has been used as a self-contained residential unit.

Neighbouring responses to the Council's questionnaires mention the occupation of an annexe on the site- it is presumed that the annexe therein referred relates to The Boat House. Despite this reference, the applicant has provided suitable evidence to demonstrate that The Boat House has been used independently from Palmers Barn for a period in excess of ten years. Despite the absence of Council Tax records, the evidence presented, including the sworn statement from all the occupants of the

dwelling between 2014 to the point of the submission of this application, meets the balance of probability required for the grant of a Lawful Development Certificate. The Local Planning Authority is satisfied that the applicant has demonstrated continuous use of The Boathouse as a residential dwelling for the necessary ten-year period.

Conclusion

The application for a Lawful Development Certificate is approved. The sworn statement from James Hurtle, alongside the supporting statutory declarations and other documents, provides sufficient evidence to demonstrate the lawful use of The Boathouse as a residential dwelling for the relevant period. Although there are some gaps in the supporting evidence, such as unverified utility records and the absence of Council Tax records, these do not outweigh the balance of probability established by the applicant's documentation. The certificate is therefore granted.

Recommendation: Application Permitted

Reason:

1 It has been demonstrated on the balance of probability that the building and land outlined in red on the attached plan has been in situ and used as an independent residential dwelling from Palmers Barn for a period in excess of ten 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/24/1644
Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		none	22.10.2024
Supporting Statement	Planning	none	22.10.2024
Supporting Docs	Water bills	none	22.10.2024
Supporting Docs	Electricity bills	none	22.10.2024
Supporting Docs	Declaration of JL	none	22.10.2024
Supporting Docs	Declaration of CS	none	22.10.2024
Supporting Docs	Declaration of DB	none	22.10.2024
Supporting Docs	Declaration of CB	none	22.10.2024
Supporting Docs	Declaration of JD	none	22.10.2024
Supporting Docs	Declaration of JH	none	28.01.2025

DELEGATED

Case Officer sign/initial Shazia Penne Date: 28.01.2025

Authorising Officer sign/initial RHERMITAGE Date: 04.02.2025

PLAN

