Statement of the Local Planning Authority

PLANNING INSPECTORATE REFERENCE: APP/Z3825/X/24/3348498

LOCAL PLANNING AUTHORITY REFERENCE: DC/24/0106

Town and Country Planning Act 1990

Planning appeal by **Mr Jeremy Ventham** at:

Blackstone Gate Farmhouse, Henfield Road
Albourne
West Sussex
BN6 9JJ

Appeal to be determined by an Inspector appointed by the Secretary of State by way of the **Written Representation** procedure.

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1. The Appeal Site

The appeal site is Blackstone Gate Farmhouse located in the north east of Woodmancote Parish and approximately 190m from the Horsham district eastern boundary with Mid Sussex district. The closest Horsham district settlement is Henfield Village, approximately 3km south west of the appeal site. The other closest settlements outside of Horsham district comprise of High Cross village and Albourne village, both to the east of the appeal site. The appeal site is accessed off Henfield Road (B2116) and is surrounded by open agricultural fields with the exception of the southern appeal site boundary with another residential site. The appeal site is therefore located in open countryside in development plan policy terms.

The appeal site comprises of a large residential dwelling, amenity garden including a swimming pool, stables, paddock, garages and a residential annexe converted from a garage building. It is the latter of these to which this appeal relates.

2 The Appeal Proposal

The appeal relates to a refused Lawful Development Certificate reference: DC/24/0106 which sought to confirm the change of use of the residential annexe to a separate single dwelling was now lawful under section 191(2) of the Town and Country Planning Acy 1990. As set out within the delegated report for the Lawful Development Certificate application, the appellant submitted evidence to support their claim that there had been continuous occupation of the residential annexe in excess of four years.

The Council's own evidence was also relied upon when considering the Lawful Development Certificate application.

As part of this appeal, the appellant has provided a copy of an Assured Shorthold Tenancy at Appendix A of their Statement of Case which is additional to that provided as part of the Lawful Development Certificate application ref: DC/24/0106.

3 Conclusion

As set out within the delegated report for Lawful Development Certificate application ref: DC/24/0106, the information submitted by the applicant to the Council in support of the claim that the residential annexe had been in continuous occupation in excess of four years preceding the date of the application, was found to be inconsistent, ambiguous and unauthenticated.

The inconsistencies relate to the frequency and amount of tenancy payments, and the lack of evidence of the first tenant's occupation between August 2021 until 2022.

The ambiguity is created by way of when the first tenant vacated the building in 2022, the lack of authentication of the tenancy agreements, and when the second tenant occupied the building in April 2022.

Furthermore, the Council's own evidence does not ascertain the occupation of the building as an independent dwelling.

The Council notes that appellant's inclusion of a copy of an Assured Shorthold Tenancy at Appendix A of their Statement of Case which is additional to that provided as part of Lawful Development Certificate application ref: DC/24/0106. As with the tenancy agreements, this does not include any signature or evidence of witnesses which may help to authenticate the notice requiring possession. The Council also notes the additional information within the Statement of Case that the first tenant started to face financial difficulties, resulting in irregular payments and then no payments between 23/08/2021 and 24/03/2022. Further, the Council notes the Statement of Case detail that the Landlord agreed to mitigate the irregular and lack of payments and allow continued residency for the first tenant provided the first tenant carried out groom duties within the paddock and stables owned by the Landlord until further notice. However, no evidence has been provided to support that such an agreement was made.

Paragraph 006 of the relevant planning practice guidance for Lawful Development Certificates (2014) explains that the applicant is responsible for providing sufficient information to support an application for lawfulness under section 191(2) of the Town and Country Planning Act 1990. This paragraph, furthermore, explains that, in the case of applications for an existing use, if the authority holds no evidence itself, nor from 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.

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".

Paragraph 006 of the relevant planning practice guidance (2014) and F W Gabbitas v SSE and Newham LBC [1985] JPL 630 is clear that the applicant's evidence alone needs to be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

As set out within the delegated report for the Lawful Development Certificate application ref: DC/24/0106 and the appeal statement detailed above, the Council considers that the 7 month period of time between August 2021 and April 2022 remains insufficiently evidenced. This is not an insignificant period of time within the claimed continuous 4 year period and the Council maintains that the evidence remains imprecise and ambiguous.

Therefore, the Council maintains that the question of continuous occupation of the residential annexe as an independent and self-contained dwelling in excess of four years is not considered to have been reasonably addressed on the balance of probability.

The Planning Inspector is therefore invited to dismiss the appeal.