Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1021
Windmill Lodge, Wheatsheaf Road, Henfield, West Sussex, BN5 9AS

DESCRIPTION:
Application to confirm the continuous use of existing building for residential use unrelated to agriculture purposes for a period in excess of ten years (Lawful Development Certificate - Existing)

RELEVANT PLANNING HISTORY:

DC/22/1386	Application to confirm the continuous use of dwelling for residential (Class C3) purposes for a period in excess of ten years prior to the date of this application (Lawful Development Certificate - Existing).	Withdrawn Application on 22.12.2022
HF/17/70	Agricultural worker's dwelling (From old Planning History)	Application Permitted on 10.07.1970

PLANNING ASSESSMENT

The application relates to a Lawful Development Certificate Existing to confirm the continuous use of the land for Use Class E commercial purposes.

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

- *Planning Statement*
- *Location Plan*
- *Photographs*
- *Statutory Declaration*
- *Statement of Occupancy*
- *Evidence of Occupants Business*

Windmill Lodge was built in the early 1970's and was originally occupied as a farmhouse as an Agricultural Workers Dwelling, approved under application Ref: HF/17/70. From 1990 the house was occupied by a retired farmer. From 1995 to date the property has been occupied by persons 'not' employed in, retired from, or associated with, farming, as per the details provided with the Planning Statement.

The original consent located within the Council's Historical files, provides the restriction of the building under Condition 2, which states:

"The occupation of the dwelling shall be limited to persons employed, or last employed, locally in agriculture as defined in Sect 221(1) of the Town and Country Planning Act, 1962, or in forestry, and a dependent of such person residing with him (but including a widow or widower of such person)."

Statutory Declaration of Deborah Louise Baldwin (Attested by DMH Stallard)

Submitted as evidence is a sworn statement from Deborah Louise Baldwin, dated 25th May 2022. Ms. Baldwin, a former resident of the neighbouring property, Fieldlands Farmhouse, lived there for 31 years, from December 1990 to December 2021. The farmhouse is located approximately 100 yards north of the site in question.

In her statement, Ms. Baldwin notes that, due to the property's proximity, she became well-acquainted with the various occupants over her time as a neighbour. She states that the current owner purchased the property in 1996 and subsequently rented it out to various tenants not involved in farming. Since 1996, all occupants have been engaged in non-agricultural businesses, and the premises have been associated only with a domestic garden, with no farmland use. The statement further supports informal evidence provided by the property owner (the applicant), confirming that all tenancies were arranged for individuals not employed in agriculture or horticulture.

Evidence of Occupants Business

In a 'Statement of Occupancy' provided by the applicant, tenants have confirmed residing in the Windmill Lodge from 12.10.13 until 23.03.2024. The tenants have supplied details of their decorating/construction business set up since 2002, with the website dates to 2008, demonstrating that it was not agriculture related.

Council's Evidence

- Aerial photos dated 2001, 2007, 2012, 2018
- Lawful Development Certificate Questionnaire – 1 neighbour has provided response to the Questionnaire attesting to knowing the activities and tenants within the property of in excess of 10 years.
- Compliance has no further comments to make concerning DC/24/1021
- HDC Revenues

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 application seeks a Certificate of Lawful Development Existing for the continuous use of building used as a residential dwelling for a period in excess of ten years.

The application documents outline that the dwelling has been in situ for a period in excess of 10 years from the date of the application.

The application is supported by a Statutory Declaration, outlining the activities of the property. Questionnaire Response

From the neighbouring property confirming that the building has been used as residential for a period in excess of 10 years.

The Council holds no other evidence to contradict these assertions. As such, it is considered on the balance of probability that the building is being used for the purpose of residential dwelling for a period in excess of 10 years from the date of the application.

Conclusion

It has been demonstrated on the balance of probability that the building outlined in red on the attached plan has been in situ and used as residential dwelling for a period in excess of 10 years from the date of the application.

Recommendation: Application Permitted

Conditions:

1 It has been demonstrated on the balance of probability that the building outlined in red on the attached plan has been in situ and used as residential dwelling for a period in excess of 10 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/24/1021
Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Planning	NONE	05.07.2024
Location plan		NONE	05.07.2024
Photos		NONE	05.07.2024

DELEGATED

Case Officer sign/initial	Shazia Penne	Date:	09.09.2024
Authorising Officer sign/initial	RHERMITAGE	Date:	19.09.2024