Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1089
Andrews Farm, South Barn, Station Road, Warnham, West Sussex, RH12 3SP

DESCRIPTION:
Application to confirm the part use of the garage building as a residential dwelling (Class C3) on a date four years previous (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

DC/24/0172	Erection of a single-storey extension to south elevation with balcony and erection of external staircase from first floor.	Application Permitted on 01.05.2024.
DC/15/0517	4 Bay Detached Oak Garage Block	Application Permitted on 30.04.2015.

SITE LOCATION & APPLICATION DESCRIPTION

The application site comprises a two-storey converted barn and forms part of a group of former agricultural buildings which have been converted to dwellings. The part of the site relevant to this application, is the garage building located towards the south of the site. The site is surrounded by open countryside and outside the built-up area. The site is not within a conservation area and there are no Article 4 Directions covering the site.

PLANNING ASSESSMENT

The application seeks a Certificate of Lawful Development to confirm the part use of the garage building as a residential dwelling (Class C3) on a date four year previous to the date of the application.

The evidence submitted:

- *Appeal Decision - APP/U1430/X/22/3313394*
  Similar case at The Cottage, Guesting Green, TN35 4HN, which was won on appeal. The appeal building was provided with its own living room, bedrooms, kitchen and bathroom and consideration should be given to whether The Cottage has provided day-to-day private domestic existence. It was considered that The Cottage did provide those facilities and is currently used as a private dwelling. Regarding the absence of Council Tax payments, the Inspector could see why council tax may not have been paid voluntarily if the building does not benefit from planning permission and it has not been formally demanded.

- *Statutory Declaration – Mr George (dated 29.05.2024)*
  On 30th April 2015, gained planning permission to a construct a detached building for garaging vehicles and storage of household items – DC/15/0517. Internal alterations were made with the installation of a kitchen, living room, bedroom, and shower room. The work was completed in May 2018. In July 2018 the residential part of The Garage was let to T. Jane Peters. The rent is paid to Mr George and covers the cost of electricity, water and drainage, and no Council Tax is paid due to the tenant not being registered on the Council Tax invoice.

- *Statutory Declaration – Ms Peters (dated 29.05.2024)*

Reside permanently in the converted garage known as The Garage, since moving from previous house in Bewbush. The owner of the property converted the garage to residential use in May 2018. Not paid Council Tax since occupying The Garage. The Post Office has not recognised The Garage as a separate dwelling and therefore does not have its own postal address. Since 23rd July 2018 I confirm I have resided at The Garage permanently as my principle resident.

- *Letter P.Overton (dated 01.06.2024)*
  The garage building has been occupied as a residential dwelling since about 2018.

- *Planning Statement*
  "The Garage" is located on the property at South Barn. It was originally constructed as a detached oak garage block following permission granted in 2015. The garage has its own kitchen and bathroom such that the occupier is completely self-sufficient. The applicant nor the tenant occupier pays Council Tax for the separate residential dwelling within The Garage, due to the subject building not being recognised as a separate residential dwelling.

- *NHS Hospital Letter (dated 12.10.2023)*
  The NHS letter has T.Peters registered at South Barn, Andrews Farm, not The Garage, in October 2023.

- *Existing Floor and Elevation Plan*
  The Garage has its own kitchen, bathroom and bedroom, and the owner is completely self-sufficient. The tenant does not rely upon any other property or dwelling for bathroom and cooking facilities.

- *Location Plan*

- *Block Plan*

Council's evidence:

- *Application DC/15/0517*
  4 Bay Detached Oak Garage Block approved on 30.04.2015.

- *Google Aerial Imagery*
  Velux windows evident on the west roofslope in 2018.

- *HDC Compliance*

- *HDC Revenues*
  The property has been in rating from 01.04.1993.

- *Warnham Parish Council*
  This application will set a precedence for all other similar planning application and is outside the planning objectives as set out in the Neighbourhood Plan. The Council would like to have this application and property tied to the main property to mitigate separate selling and development opportunities.

The application contends that the evidence submitted shows that the part use of the garage building as a residential dwelling has been for a period in excess of four years prior to the application date.

Section 191(4) of the Town and Country Planning Act 1990 state 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*."

The Court held in F W Gabbitas v SSE and Newham LBC [1985] JPL 630 that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their 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".

Planning permission was granted for a '4-bay detached oak garage block' in April 2015 – planning reference DC/15/0517. This permission was not subject to a condition securing the incidental use of the garage to the main dwellinghouse. Since the permission, the garage has been subject to internal alterations which included the installation of a kitchen, living room, bedroom, and shower room. This application seeks to confirm the part use of the garage building as a residential dwelling for four years previous to the date of this application.

A statutory declaration from Mr George states that planning permission for the garage was gained on 30th April 2015. Internal alterations were made with the installation of a kitchen, living room, bedroom, and shower room, with the work complete in May 2018. In July 2018, the converted residential part of The Garage was let to Ms Peters who occupies the dwelling as her permanent residence and pays rent to Mr George.

The statutory declaration from Ms Peters confirms that they reside permanently in the converted part of The Garage, after previously living in Bewbush. Ms Peters commenced living in The Garage from 23rd July 2018. Rent to Mr George covers electricity, water, and drainage, but no council tax has been paid as the dwelling is not registered with the local authority. No evidence has been provided to dispute the information stated in the statutory declarations.

The Applicant has submitted a Planning Statement that states that the garage is completely self-sufficient, with its own kitchen and bathroom. Residential accommodation is provided at ground and first floor level, but only using part of the existing garage building. The internal photographs are limited, but they do show a functioning kitchen, living room and bathroom. Although no photograph of the bedroom has been provided. However, the existing plans and elevations shows the layout of the subject building, and a bedroom has been shown. As well as the location of the Velux windows and the use of the rest of the garage as storage. Google Imagery from 2018 shows Velux windows on the west roofslope. Consideration should be given as to whether The Garage has provided facilities for day-to-day private domestic existence. On the evidence presented, The Garage currently provides facilities for residential living independent to South Barn and is therefore in use as a private residential dwelling.

There is no record of council tax being paid for The Garage. It is considered that as this has not been considered a separate residential dwelling and is not formally registered, that this would be sufficient explanation as to why there is an absence of council tax record. Furthermore, the NHS letter provided demonstrates that T. Peters was living within the application site of South Barn in 2023, and that for the same reason that council tax has not been paid, the Post Office has not recognised The Garage as a separate address point.

It is considered that the evidence submitted is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, that part of The Garage has been occupied as an independent residential dwelling since 23rd July 2018. Therefore, as this is a period in excess of 4 years previous to the date of the application, a certificate of lawfulness should be granted.

Recommendation: Application Permitted

Reason:

1. It has been demonstrated, on the balance of probability, that the first floor (edged in red on the plan below) and part of the ground floor of the garage building (edged and filled in red on the plan below) has been used as an independent residential dwelling for a period in excess of four years, prior to the date of this 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/24/1089

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Elevation & Floor plan	Existing	2024-01	16.07.2024
Location plan		2024-02	16.07.2024
Supporting Statement	Appeal Decision	NONE	16.07.2024
Block plan		2024-03	16.07.2024
Supporting Statement	Planning	NONE	16.07.2024

DELEGATED

Case Officer sign/initial Bethan Tinning Date: 05.09.2024

Authorising Officer sign/initial RHERMITAGE Date: 09/09/2024

PLAN

