



Planning Statement

TOWN & COUNTRY PLANNING ACT 1990

SECTION 191 AS AMENDED BY SECTION 10 OF THE PLANNING & COMPENSATION ACT 1991

TOWN & COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015

PROPOSAL: APPLICATION FOR A LAWFUL USE CERTIFICATE CONCERNING CHANGE OF USE OF A BUILDING TO A SELF-CONTAINED DWELLING

SITE: PEPPERS FARM PEPPERS LANE ASHURST, STEYNING WEST SUSSEX BN44 3AX

APPLICANT: MR & MRS WOODS

Background

Peppers Farm comprises an equestrian unit located on a holding of approximately 98 acres. It is located in a rural position, on the south-west side of Peppers Lane, in a position approximately 1km to the west of Ashurst.

The building, the subject of this application, is a small, traditional, vernacular brick and tile structure. It is estimated to date from the late 19th/early 20th century. It is located in a position a short distance to the north- east of the main house. The Farm access drive passes by its front elevation.

The building was converted by the applicants to a self-contained dwelling comprising kitchen, bathroom and bed/sitting room with a mezzanine storage area over the kitchen/bathroom.

The applicants converted the building in the early part of 2016 with works being complete by early May of that year.

From the 15th May 2016, the applicants have let the building [REDACTED]. [REDACTED]. He occupied the dwelling on a continual basis since that date. Throughout this 10-year period, he has been employed by the applicants as a gardener.

Prior to the conversion of the building, it had been used for ancillary domestic storage purposes and tack room associated with the main house. The location of the building and the floor plan layout are illustrated on scaled plans which accompany this application.



Figure 1 – Front elevation of converted application building

The Legislative Background

Section 171B of the Town & Country Planning Act 1990 deals with the time limits for enforcement action in respect of planning control. This section is reproduced below.

Time limits

171B.-

(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, and

(b) in the case of a breach of planning control in Wales, four 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 of planning control in England, ten years beginning with the date of the breach, and

(b) in the case of a breach of planning control in Wales, four 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.

By virtue of Section 191(1), uses and operations are lawful if no enforcement action may be taken against them, and they are not in contravention of any enforcement notice which is in force.

Section 191 of the Act provides for an application to determine whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes.

In making such an application the onus is on the applicant to provide sufficient evidence to demonstrate (on the balance of probability) that the operations, building works or use, have been undertaken for the required minimum period.

If the decision maker has 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 reason to refuse the application, provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a Certificate 'on the balance of probability'. The decision is to be based on legal issues and not planning merits.

A Certificate application is required to precisely identify the area of land to which it relates, provide precise details of what use or operations have been undertaken and, if appropriate, specify within which Use Class the Use would fall.

Evidence Presented To Demonstrate 10 Years' Occupation of the Converted Building as a Self-Contained Dwelling

This Certificate of Lawful Existing Use or Development application is accompanied by the following documentation:

1. A Statutory Declaration from [REDACTED] owner of the Farm. It confirms the position of the building on an accompanying location plan. The precise start date for the occupation of the dwelling is confirmed as the 15th May 2016. The Declaration also attests to the fact that the dwelling has been occupied on a permanent and continual basis by the tenant, [REDACTED] for the past 10 years.
2. A Statutory Declaration from [REDACTED] the tenant. His Declaration identifies the said building on a location plan and confirms that he has occupied the property continuously as his sole residence since the 15th May 2016.
3. Copies of dated and time stamped internal photographs of the conversion from the 6th May 2016.
4. A copy of the Tenancy Agreement between the applicants and the tenant dated the 15th May 2016.

Assessment

It is considered that the evidence submitted demonstrates that, 'on the balance of probability', the subject converted building has been occupied as a self-contained dwelling for the past 10 years. Such occupation has been by a single tenant on a continual basis.

Given that the dwelling use was as the result of a conversion of an existing building in May 2016, immunity rules that applied prior to the 25th April 2024 remain applicable. Prior to April 2024, the conversion of a building to a dwelling was the subject of a 4 year rule. As the application building had already been in residential use for more than 4 years prior to the change in the immunity periods it also secures immunity from Enforcement Action under the previous rules.

The Statutory Declarations prepared by both the owner and the tenant are clear and unequivocal statements of fact.

Further supporting documentary evidence is presented in the form of the original Tenancy Agreement and time and date stamped photographs of the building in its converted form from the 6th May 2016.

This submitted evidence is considered to meet the 'balance of probability' test set out by the legislation.

It is not possible to produce utility bills, such as water and electricity, as the dwelling is not the subject of separate supplies. Rather, it is run from the Farm water and electricity supplies.