



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/26/0580

Merrion Farm, Bines Green, Partridge Green, Horsham, West Sussex, RH13 8EH

DESCRIPTION:

Use of land for the stationing of a shepherd's hut with associated facilities building for use as holiday accommodation. (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

- | | | |
|------------|--|-----------------------------------|
| DC/24/0710 | Retrospective application for the erection of a shepherds hut and kitchen/bathroom for holiday accommodation | Application Refused on 12.07.2024 |
| DC/21/1068 | A single shepherds hut rented out for holiday use and an associated kitchen and bathroom. (Lawful Development Certificate - Existing). | Split Decision 07.12.2022: - |
- Approved in respect of operational development, comprising of the erection of a structure to contain a kitchen and bathroom.
 - Refused for the use of the land as holiday accommodation.

PLANNING ASSESSMENT

Background

Section 191 of the Town and Country Planning Act 1990 (as amended) enables any person to apply for a Certificate of Lawful Existing Use or Development (CLEUD) to establish whether an existing use, operation or other matter is lawful.

Section 191(2) of the Town and Country Planning Act 1990 provides that: -

"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."

The application site is not subject to any extant enforcement notice and therefore falls to be assessed against Section 191(2)(a).

The Planning Practice Guidance (PPG) confirms that the onus of proof rests with the applicant. The applicant is responsible for providing sufficient information to support the application. The relevant test is not whether the Local Planning Authority believes the use to be lawful beyond all reasonable doubt, but whether, on the balance of probability, the evidence demonstrates that the use has become lawful.

The application seeks a Certificate of Lawful Existing Use or Development in respect of the use of land for the stationing of a shepherd's hut and associated facilities building for holiday accommodation purposes.

The site has a relevant planning history. Application DC/21/1068 sought a Certificate of Lawfulness for a shepherd's hut and associated kitchen/bathroom building. A split decision was issued on 12 December 2022 whereby the kitchen/bathroom structure was found lawful as operational development, but insufficient evidence existed at that time to demonstrate that the holiday accommodation use had exceeded the relevant immunity period. The subsequent appeal (APP/Z3825/X/23/3323907) was dismissed on 10 April 2024 because the evidence available at that date did not demonstrate a continuous holiday accommodation use for a period exceeding ten years prior to the application date.

A subsequent retrospective planning application to regularise the use of the land, re: DC/24/0710, was refused on matters relating to the water neutrality and the Arun Valley designated sites. The application was not refused for any other reason(s).

Assessment

The application must be determined solely on the facts and evidence presented and not on the planning merits of the development. The principal issue is whether it has been demonstrated, on the balance of probabilities, that the use of the land for holiday accommodation has occurred continuously for a period in excess of ten years such that no enforcement action may now be taken.

Section 171B of the Town and Country Planning Act 1990 sets out the relevant enforcement periods. The application concerns a material change of use of land for holiday accommodation purposes and therefore falls within the scope of Section 171B(3), which provides that no enforcement action may be taken after the end of a period of ten years beginning with the date of the breach.

Summary of Applicant's Evidence

- Site Location Plan
- Block Plan
- Planning Statement 1
- Planning Statement 2
- Booking records.
- Visitor book entries.
- Photographic evidence.
- Statutory Declarations.
- Evidence relating to the marketing and operation of the accommodation through Canopy & Stars.
- Supporting aerial imagery and historical records.

Summary of Council's Evidence

- Consultation Revenues Team – Confirming liability since 01.06.2011 (the applicant)
- Elections Team – Confirming 1 registered elector since 2017 (the applicant)
- Aerial Photograph dated 2001, 2007, 2021 and 2018
- HDC Compliance Team
- The site's planning history

Discussion

The Planning Statement explains that the shepherd's hut and associated facilities building were installed during April 2015 as part of a farm diversification enterprise and that holiday accommodation commenced shortly thereafter. Evidence has been submitted showing the installation of the shepherd's hut in April 2015 together with correspondence from Canopy & Stars dated August 2015 confirming that the accommodation was actively being advertised and available for booking. The evidence also

includes booking records demonstrating occupation throughout 2015 and subsequent years, together with visitor book entries evidencing ongoing guest use.

The Planning Inspector, in determining appeal APP/Z3825/X/23/3323907, did not dispute the existence of the shepherd's hut or associated holiday accommodation use, with their decision accepting the presence and use since June 2015. The LDC was though dismissed as this timeline would, in 2023, have been less than the 10 years necessary to be immune from enforcement action (at the date of the application).

The current LDC has been submitted 10-years after the accepted timeframe of the shepherd's hut being sited on the land and being used for short-term holiday accommodation. The submitted evidence demonstrates that the holiday accommodation use commenced during 2015 and has continued beyond April/June 2025, thereby exceeding the ten-year immunity period required by Section 171B(3) of the Act. The submitted booking schedules indicate regular occupation over a prolonged period, whilst visitor book entries and statutory declarations provide corroborative evidence that the accommodation has continued to operate for holiday purposes throughout the relevant period.

The associated facilities building was previously found lawful under LDC ref: DC/21/1068 and its inclusion within this current submission does not raise any issue(s).

Conclusion

There is no substantive evidence before the Local Planning Authority that contradicts the applicant's account of continuous holiday accommodation use. The evidence is considered sufficiently precise, unambiguous and consistent to demonstrate, on the balance of probabilities, that the use of the land for the stationing of a shepherd's hut and associated facilities building for holiday accommodation has continued for a period in excess of ten years. It is therefore recommended that a lawful development certificate be granted.

Recommendation: Application Permitted

Reason:

- 1 It has been demonstrated, on the balance of probabilities, that the use of the land for the stationing of a shepherd's hut (identified in blue) and associated facilities building (identified in red) for holiday accommodation has continued for a period in excess of ten years.

Plans list for: DC/26/0580

(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved:**

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Planning statement part 1	NONE	08.04.2026
Supporting Statement	Planning statement part 2	NONE	08.04.2026
Location plan		NONE	08.04.2026
Block plan		NONE	08.04.2026

DELEGATED

Case Officer sign/initial Shazia Penne Date: 16.06.2026

Authorising Officer sign/initial Guy Everest Date: 17.06.2026

