Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1371
Keepers Cottage, Coltstaple Lane, Horsham, West Sussex, RH13 9AN

DESCRIPTION:
Application to confirm the construction of the orangery to the north-east elevation of the property is lawful under planning application DC/14/0392 (Certificate of Lawful Development - Existing).

RELEVANT PLANNING HISTORY:

DC/14/0392	Kitchen extension with new bedroom and shower over southern elevation, new porch to utility room and main entrance and orangery added, to rear flat roofed bathroom extension removed and shower en-suite added, new dormer added to replace roof lights, existing garage demolished and replaced with open bay garage and storage over	Application Permitted on 28.04.2014

REPRESENTATIONS AND CONSULTATIONS RESPONSES
Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Parish Comments:
Objection as the flat roof is not in keeping with SPC Village Design Statement and SNP 16.

Representations:
None received

HUMAN RIGHTS AND EQUALITY:
The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT
The application seeks a Lawful Development Certificate to confirm that an orangery to the north-eastern elevation of the dwelling would be lawful under planning permission ref: DC/14/0392.

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
- Existing and proposed plans.
- Design and Access Statement.
- Energy Bills.
- Photos of the current works to the orangery.

Aerial Photos and Council's Evidence
- Historical Planning Records.
- Building Control information.

Assessment
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".

Permission was granted under DC/14/0392 on the 28.04.2014 for a "*Kitchen extension with new bedroom and shower over southern elevation, new porch to utility room and main entrance and orangery added, to rear flat roofed bathroom extension removed and shower en-suite added, new dormer added to replace roof lights, existing garage demolished and replaced with open bay garage and storage over"*

The Council Building Control records confirm that excavations had taken place in September 2015, with the two-storey extension completed in September 2017 (ref: SBC/15/0850). It is therefore apparent that the approved development was commenced within the required three-year period, with an element of the development also completed in accordance with the approved plans.

While elements of the above planning permission have not been commenced or completed, this does not alter the fact that the development was commenced within the required time period. As a consequence, it would be possible to implement erection of the orangery, with the submitted plans indicating the extension would accord with the originally approved plans.

It is noted that a representation has been received, objecting to the proposal due to the design of the orangery extension. While this is noted this is not a material consideration in the determination of this lawful development certificate.

Conclusion

It has been demonstrated on the balance of probability that the works permitted under DC/14/0392 were commenced within a three-year period from the date of the planning permission. The planning

permission is therefore extant and the erection of an orangery in accordance with the originally approved plans would be lawful.

Recommendation: Application Permitted

Reason:

1. It has been demonstrated on the balance of probability that the works permitted under DC/14/0392 were commenced within a three-year period from the date of the planning permission. The planning permission is therefore extant and the erection of an orangery in accordance with the originally approved plans would be lawful.

Plans list for: DC/24/1371
(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
Location plan		NONE	09.09.2024
Floor plan	Proposed and Roof	KC-24-04	23.10.2024
Elevation plan	Proposed South and West	KC-24-06	23.10.2024
Roof plan	Proposed North and East	KC-24-05	23.10.2024

DELEGATED

Case Officer sign/initial Alice Johnson Date: 11/12/2024

Authorising Officer sign/initial Guy Everest Date: 18.12.2024