Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/25/0167
Jessups Farm, Honeybridge Lane, Ashurst, West Sussex, BN44 3AW

DESCRIPTION:
Application to confirm the substantial completion of building works for building identified as West Barn on a date four years previous (Lawful Development Certificate Existing)

RELEVANT PLANNING HISTORY:

DC/23/1516	Application to confirm the north and south barns have existed and have been built and used continuously for agricultural purposes for a period in excess of four (4) years. (Lawful Development Certificate - Existing)	Application Refused on 14.03.2024
DC/23/1662	Application to confirm the use of a former farm building as a self-contained residential dwelling began more than four years before the date of this application (Lawful Development Certificate - Existing)	Application Permitted on 14.03.2024
DC/23/1679	Application to confirm the continued use of mobile home as residential dwelling for over 10 years (Certificate Existing Lawful Development)	Application Permitted on 14.03.2024
DC/23/1707	Application to confirm the completion of the ground floor infill extension on the dwelling known as Farm Lodge in February 2012 (Lawful Development Certificate - Existing)	Application Permitted on 14.03.2024
DC/23/1772	Erection of an agricultural building (Retrospective)	Application Refused on 15.03.2024
DC/24/1407	Prior Notification for the Change of Use of Agricultural Buildings to B8 Storage use.	Prior Approval Required and PERMITTED on 06.11.2024

ASSESSMENT

The application seeks a Lawful Development Certificate (existing) to confirm the substantial completion of building works for the building identified as West Barn on a date four years previous.

Relevant Legislation and Guidance

Section 191(2) of the Town and Country Planning Act 1990 (TCPA) provides that *'for the purposes of this Act uses and operations are lawful at any time if*

a.) no enforcement action may 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 land and matters subject of this application are not subject of an extant enforcement notice, as such, there would be no automatic exemption from the grant of a certificate of lawfulness by virtue of the provisions of S.191(2)(b) TCPA 1990.

S.171B of the TCPA states:

'(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 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 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.'

S.191(4) of the TCPA states:

"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, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

Paragraph 006 of the relevant planning practice guidance (PPG) explains that the applicant is responsible for providing sufficient information to support an application. This paragraph, furthermore, explains that, in the case of applications for an existing use, if the authority holds no evidence itself, nor from any 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 a balance of probability.

Case law, furthermore, would confirm that in the determination of an application for a certificate of lawfulness, the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the authority holds no evidence itself, or from others, to contradict or call into question the probability of the applicant's version of events there is no good reason to refuse an application.

The Site

The application site is located to the west of Honeybridge Lane, outside of any designated built-up area boundary. The site is therefore located within the countryside in policy terms.

There are three large barns within the site, known as north, south and west barn (the subject of this certificate). The West Barn is a utilitarian rectangular shaped one-storey building located to the west of the plot, within an area of hardstanding. The wider surroundings are characterised by open countryside and woodland, with a number of ponds located within the vicinity of the site.

The site is accessed from the north, with an area of hardstanding provided immediately to the south-west.

The Building Works

The submitted information states that The West Barn was completed in January 2019 and has been used for the storage of machinery since then (namely tractors, a telehandler and grassland equipment). The approximate dimensions of the barn are a width of 24m, depth 15m, eaves height of 4.6m and a ridge

height of 6.4m. The materials are green sheet metal with a cement roof and two roller shutters to the eastern elevation.

The Test

TCPA 1990 s191(1) provides that if any person wishes to ascertain whether:

- *Any existing use of buildings or other land is lawful;*
- *Any operations which have been carried out in, over or under land are lawful; or*
- *Any other matter, constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful;*

he may apply to the local planning authority specifying the land and describing the use, operations or other matter.

If on such an application, the local planning authority is satisfied with the lawfulness of the use, operations, or other matters described in the application, or that description as modified or substituted by them, it shall issue a certificate or refuse the application.

The Act provides that in respect of a failure to comply with any condition or limitation subject to which planning permission has been granted, any matter constituting such a failure is lawful at any time if:

(a) The time for taking enforcement action in respect of the failure has expired; and
(b) It does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

The Applicant's Evidence

- Planning Statement
- Design and Access Statement for DC/23/1772
- Photographic Evidence
- Statutory Declarations

The Council's Evidence

- Aerial photography of the site, dated 2001, 2007, 2012 and 2018, 2020.
- Consultation response from the Council's Planning Compliance Team
- Case Officer site visit photos from 2023.

Assessment of the Evidence

The aerial photography available to the planning officer illustrates that the building was not present on the site in 2018 but was present on the site by April 2020. The positioning and roof appear to look the same as they do today. The Planning Statement and the Statutory Declaration of Mrs Powell state that the building has been used for the storage of agricultural machinery and a schedule of machines and photographs have been provided.

In 2024, DC/23/1772 was refused for the retrospective erection of this building described as an 'agricultural building'. This application found that there are currently no farming operations on site to require agricultural storage.

DC/24/1407 allowed the Prior Approval for the change of use of the north and south barn to B8 storage from agriculture. These barns were in place before the 'west barn' and were in place when agriculture was still operating at the site in 2012. The West Barn was built after the agricultural uses ceased. Although it is stated in the planning statement that the west barn is used for the storage of agricultural machinery this is considered to be for 'land management' rather than agricultural activities. There is not considered to be enough evidence to demonstrate that the building has been used for agricultural purposes and the certificate is only granted for the 'substantial completion of building works' rather than any lawful use of the building.

The balance of probability

The available aerial photographs (particularly between 2018 and 2020) indicate the building to be in position by April 2020.

The Council has no evidence of its own to dispute that the works took place any later than 2020. The submitted documents therefore indicate that the works took place within a period in excess of 4 years to the present day on the balance of probability.

Recommendation: Application permitted

Reason:

It has been demonstrated on the balance of probability that the building works for the building identified as West Barn, as shown edged in red on the plan below, were substantially completed within a period in excess of 4 years from the submission of this certificate.

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/25/0167
Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		none	03.02.2025
Elevation plan	West Barn	1	03.02.2025
Floor plan		2	03.02.2025
Site plan		none	03.02.2025
Supporting Statement	Planning	none	03.02.2025

DELEGATED

Case Officer sign/initial Kate Turner Date: 31/3/25

Authorising Officer sign/initial RHERMITAGE Date: 07.04.2025

PLAN

