Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/25/0767
Warrens View, Nowhurst Lane, Broadbridge Heath, West Sussex, RH12 3PJ

DESCRIPTION:
Application to confirm existing use of annex building as independent residential dwelling on a date four years previous (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

SF/9/95	Garage extension Site: 2 Strood Cottages Nowhurst Lane Broadbridge Heath	Application PERMITTED on 19.05.1995
SF/63/01	Conversion and alterations to roof space of garage extension approved under sf/9/95 to form granny annexe with dormer and velux windows Site: 2 Strood Cottages Nowhurst Lane Broadbridge Heath	Application PERMITTED on 26.10.2001
DC/06/1648	Removal of condition 3 of SF/63/01 to allow use as an independent dwelling	Application REFUSED on 25.08.2006

PLANNING ASSESSMENT

The application relates to a Lawful Development Certificate (Existing) to confirm the continuous use of an annexe as a self-contained residential dwelling (Class C3) for a period in excess of four years.

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."

Summary of Applicant's Evidence

- *Site Location Plan*
- *Statutory Declaration*
- *Council Tax Bill – for period 2017-2020*

Summary of Council's Evidence

- *Consultation Revenues Team – Confirming liability since 15.03.2010 (the applicant)*
- *Elections Team – Confirming 1 registered elector since 2017 (the applicant)*
- *Neighbouring representation*
- *Aerial Photograph dated 2001, 2007, 2021 and 2018*
- *HDC Compliance Team*

- *The site's planning history (detailed above)*

Discussion

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".

In addition, paragraph 006 (Reference ID: 17c-006-20140306, revision date 06.03.2014) of the PPG states:

> *...if a local planning authority has no evidence itself, nor any 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.*

[*emphasis* added]

The application building was constructed following the grant of SF/9/95 in 1995, which was subsequently converted under application SF/63/01 in 2001. Condition 3 attached to permission SF/63/01 (which was granted to convert the former garage to an annexe) conditioned the use of the building solely as an annexe, and stated:

> *The accommodation hereby permitted shall be occupied solely for the purposes incidental to the occupation and enjoyment of 2 Strood Cottage as a dwelling and shall not be used as a separate unit of accommodation.*
>
> *Reason: The site is located within a rural area where it is the policy of the Local Planning Authority to strictly control the formation of additional independent units of residential accommodation.*

An application in 2006 was sought to remove this condition (DC/06/1648) though was subsequently refused by the Local Planning Authority. The applicant alleges that, despite the refusal of the 2006 permission and the condition imposed by the 2001 permission, the annexe has been occupied interpedently since 2015 (according to their statutory declaration).

While it is acknowledged that the applicant has provided statutory declaration and council tax records (dated 2017), these documents fail to establish a clear and continuous timeline of residential use: both responses from the Council's Elections team and Revenues and Benefits department confirm that the applicant has resided within the building (2017 and 2010 respectively). However, this is not conducive to independent residential use of the site, as it is entirely possible to register for elections whilst residing within an annexe, and annexes are subject to Council Tax.

Section 191(4) of the Town and Country Planning Act 1990 is explicit in stating that a certificate of lawfulness be refused if the Local Planning Authority is not satisfied of the lawfulness of the use based on the information provided. Additionally, case law, including F W Gabbitas v SSE and Newham LBC [1985] JPL 630, emphasizes that while corroborating evidence is not essential, the evidence must still

be precise, unambiguous, and persuasive. Whilst the Council is not in possession of evidence to counter that supplied by the applicant, the evidence provided is not suitably unambiguous and precise enough to justify the granting of the certificate on the balance of probability, and therefore fails the tests of the PPG006 (as above).

In conclusion, the Local Planning Authority cannot grant the application for a Lawful Development Certificate due to insufficient evidence to demonstrate that the 'Warrens View' building has been in continuous use as a self-contained annexe building used as an independent residential dwelling for a period in excess of four years prior to the date of this application. The evidence fails to meet the legal requirements set out in the Town and Country Planning Act 1990 and the PPG. The certificate is therefore refused on this basis.

Recommendation: Application Refused

Reason for Refusal:

1 It has not been demonstrated, on the balance of probability, that the building (outlined in red on the attached plan) has been used as an independent residential dwelling for a continuous period in excess of 4 years, as required for the grant of a Lawful Development Certificate (Existing).

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/25/0767
Schedule of plans/documents **not approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		NONE	08.05.2025
Supporting Document	Statutory Declaration	NONE	08.05.2025
Supporting Document	Council Tax Bill	NONE	08.05.2025

DELEGATED

Case Officer sign/initial Shazia Penne Date: 01.07.2025

Authorising Officer sign/initial RHERMITAGE Date: 23.07.2025

PLAN


Strood
Cottages
Warrens View
2
1
44.1m
Strood Green
Old Strood
Coach House
Old Strood