Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/23/2157
Pondfield Farm, Nowhurst Lane, Broadbridge Heath, Horsham, West Sussex, RH12 3PJ

DESCRIPTION:

Application to confirm the continuous use of a short term holiday let for a period in excess of 4 years (Lawful Development Certificate - Existing)

RELEVANT PLANNING HISTORY:

DC/23/1665	Application to confirm the continuous use of the cabin as a holiday home for a period in excess of ten years (Lawful Development Certificate - Existing)	Application Refused on 17.11.2023

PLANNING ASSESSMENT

The application seeks a Certificate of Lawful Development (Existing) – continuous use of an outbuilding as residential for a period in excess of 4 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

- *Location Plan identifying the site in blue*
- *Planning Statement*
- *Council Tax Bills*
- *Air BnB Reviews*
- *Water Bills*
- *Electricity Bills*
- *Insurance Bills*
- *Waste Bills*
- *Visitors Book*
- *Photographs*
- *Witness Statements*

Summary of Council's Evidence

- *Compliance Investigation*

Complaint received regarding the use of an outbuilding for residential purposes. This application has been invited from the compliance case

- *Consultation Revenues Team – Confirming liability date*
- *Aerial Photograph dated 2001, 2007, 2021 and 2018*
- *Application documents and site photographs*

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 support of the application the applicant has advised that the outbuilding has been on the land for 20 years. The Council's aerial photography does appear to confirm a structure being present on site for this period, dating as back as 2001. However, the images do not provide any evidence towards the use of the site- though there does appear to be some form of boundary between the site and the wider field.

In support of the application, the Applicant has provided visitors book and AirBnB reviews dating back from 2019 and up to date. This evidences that the building has been used for short-term holiday rental for a period in excess of 4 years. This is considered to demonstrate on the balance of probability that the building has been used for holiday purposes for the relevant period.

It is noted that other information has been submitted, including Council Tax bills, utility bills, and insurance bills. These however relate to Pondtail Farm as a whole and do not independently reference the subject building.

Conclusion

On the basis of the available evidence, it is considered on the balance of probability that the site has been used as a self-contained and independent residential unit for a period in excess of 4 years from the date of the application submission.

Recommendation: Application Permitted

Conditions:

1 It has been demonstrated on the balance of probability that the building (outlined in red on the attached Plan) has been used for short-term holiday let purposes for a continuous period in excess of 4 years.

Plans list for: DC/23/2157
(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	28.11.2023

DELEGATED

Case Officer sign/initial Shazia Penne Date: 10.06.2024

Authorising Officer sign/initial Tamara Dale Date: 10.06.2024

