Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/25/1084
Home Farm, Owlbeech Granary, St Leonards Forest, Horsham, West Sussex, RH13 6PH

DESCRIPTION:
Application to confirm the garden curtilage and the existing outbuildings for a period in excess of ten years (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

CG/21/90	Conversion of granary and sawmill to dwelling Site: Granary And Sawmill Home Farm St Leonards Colgate	Application Permitted on 07.08.1990

PLANNING ASSESSMENT

The evidence supplied by an application for a Certificate of Lawfulness of Development (existing) must be sufficiently precise and unambiguous, on the balance of probabilities, to demonstrate that the building has been used in the manner described for a period in excess of 10 years. As such, in order to determine whether it is immune from enforcement action, the 10-year limitation period needs to be applied pursuant to Section 171B (3) of the Planning and Compensation Act 1991.

Section 191 of the Town and Country Planning Act (as amended by S10(1) of the Planning and Compensation Act 1991) states:

If any person wishes to ascertain whether-

a) any existing use of buildings or other land is lawful,
b) any operations which have been carried out in, on, over or under land are lawful, or
c) 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 make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

For the purposes of the 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.

If the local planning authority are provided with the 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, they shall issue a certificate to that effect. In any other case they shall refuse the application.

Under Section 171B (3) of the Town and Country Planning Act 1990, a lawful development certificate can be granted where there has been a breach of planning control consisting of a breach of a planning condition. No enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach of any given condition of a planning permission.

Paragraph: 006 Reference ID: 17c-006-20140306 of the NPPG states "the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning statues of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence".

This certificate of lawfulness application is seeking to demonstrate that the extent of the garden curtilage and the existing outbuildings has been in existences for a period in excess of ten years.

Applicant's Evidence
- Location Plan
- Block Plan
- Planning Statement
- Historic aerial photos
- Photo sheet of periodic photos

Council's Evidence
- Planning History of the site.
- There are no separate Council or Business Rates records of the outbuilding as it may be exempt due to the use being for ancillary accommodation.
- Periodic aerial photos from 2012 of the site shows a mixture of shrubland, woodland and some areas of maintained grassland.

The submitted planning statement explains that the main dwelling, Owl Beech Granary, was converted from a traditional granary to residential property under planning application reference CC/21/90. The approved location plan on application reference CC/21/90 shows the original residential curtilage outlined in red.

Whilst the Council's periodic aerial photos shows that the original residential curtilage had been expanded over the years however, the aerial photo from 2018 shows the parcels land to the far east and far south of the main dwelling as shrubland and woodland. Therefore, it is considered that on the balance of probability that some of the land outside of the approved residential curtilage, as outlined in red on the plan below, was used as residential amenity space in connection with Home Farm, Owlbeech Granary for a period in excess of 10 years. Whereas the parcel of land hatched in green appear to have been used as a combination of shrubland and woodland with the presence of redundant agricultural paraphernalia, such as polytunnels etc.

Regarding the outbuilding, the applicant's statutory declaration states that the former bakery was used as an ancillary domestic storage building since 2002. However, it has recently been converted into ancillary residential accommodation. The Council's periodic aerial photo from 2018 as well as the applicant's google earth aerial photos shows the outbuilding in dilapidated state of disrepair. The presence of the substantially converted outbuilding is clearly visible since 2022 on the applicant's google earth aerial photos. Furthermore, planning compliance investigation of the site confirms that the outbuilding on the land is being used as AirBNB accommodation, and it was clearly constructed less than 10 years ago. Therefore, it is considered that the outbuilding, as outlined in blue on the plan below, has not been used as ancillary residential accommodation in the last 10 years.

Recommendation: Split Decision

Lawful:

1 It has been demonstrated on the balance of probability (as outlined in red on the plan below) has been used as residential curtilage in connection with Home Farm, Owlbeech Granary for a period in excess of 10 years from the date of the application.

Unlawful:

1 It has not been demonstrated on the balance of probability that the outbuilding, the former bakery building, (as outlined in blue on the plan below) has been used as ancillary accommodation for a period in excess of 10 years from the date of the application.

2 It has not been demonstrated on the balance of probability that the land outside of the approved residential curtilage, (as hatched in green on the plan below) has been used as residential amenity space in connection with Home Farm, Owlbeech Granary for a period in excess of 10 years from the date of the application.

Plans list for: DC/25/1084
Schedule of plans/documents:

Plan Type	Description	Drawing Number	Received Date
Block plan		01	23.07.2025
Supporting Statement	Planning	NONE	01.07.2025
Photos		NONE	01.07.2025
Photos		NONE	01.07.2025

DELEGATED

Case Officer sign/initial Halima Chowdhury Date: 13.08.2025

Authorising Officer sign/initial RHERMITAGE Date: 17.09.2025

PLAN

