

SUPPORTING STATEMENT

APPLICATION FOR A CERTIFICATE OF LAWFUL EXISTING DEVELOPMENT FOR THE USE OF A BUILDING AS A SINGLE DWELLINGHOUSE

FAIRGROUND CARAVANS (THE SHOWMANS YARD), SCOURS LANE,
READING, BERKSHIRE RG30 6AX.

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INTRODUCTION

This report accompanies an application for a Lawful Development Certificate for the change of use of a building to use as a single dwellinghouse. The use of the building as a single dwelling has been continuous for a period in excess of 4 years.

Section 171B of the Town and Country Planning Act 1990 (as amended) (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.

(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.

The change of use of the building falls within Section 171B(2) above. Therefore the relevant period of time is four years.

Section 191 of the TCPA deals with Certificates of Lawfulness and defines uses and operations as lawful 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.

It is well established in case law since *Gabbittas v Secretary of State for the Environment* [1985] JPL 630 that the level of evidence required for the grant of a Lawful Development Certificate is 'on the balance of probability' and not the much higher level of 'beyond all reasonable doubt'. Furthermore the Courts have held that if the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less 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'.

This report provides precise and unambiguous evidence to show, ‘on the balance of probability’, that the building has been used as a single dwelling. This use constitutes a material change of use which required the benefit of planning permission. The use has been continuous for a period in excess of 4 years and does not contravene any enforcement notice requirements. The use of the building as a single dwelling is therefore lawful.

BACKGROUND

Lawful Development Certificate (LDC) 06/00834/CLE/KS1 was granted on 8th September 2006 for the use of the site as a showman’s yard and winter quarters. The land had been used for the storage and maintenance of fairground rides and associated vehicles and caravans the repair and sale of motor vehicles and the residential occupation of 4 mobile homes and 2 caravans. There is no mention of buildings being present on the site although the building subject to this application and the workshop building are evident on aerial photographs of the site from this period.

The subject building was constructed approximately 15 years ago and is evident on the aerial photograph attached dated 30th May 2009. The building itself has therefore become lawful as it was substantially completed more than 4 years ago. The building was initially used as a day room and latterly for general storage.

Approximately 5 years ago the building was converted by the owner for use as a single dwellinghouse and Ms Diane Jones, who was already occupying one of the mobile homes on the site, moved in.

The building now comprises a large open plan lounge, kitchen, dining room and bedroom area with a separate toilet and wash hand basin.

She has lived in the dwelling continuously for a period in excess of 4 years.

EVIDENCE

Legislation

Evidence from Current Owners

The owner, Mr James Meech has provided evidence in the form of a Sworn Affidavit, an aerial photograph taken on 30th May 2009 and plans showing the dwelling. He states inter alia that the building was constructed around 15 years ago and was initially used as a day room and then for storage. He converted the building to a dwelling approximately 5 years ago and Diane Jones moved in once it had been completed.

Evidence from Third Party

Diane Jones has provided a letter which states that she has lived on the site since 1996. She moved out of the mobile home approximately 5 years ago and has lived in the house ever since. Her post is delivered to the front of the site along with all of the other site residents. She also states that she has been employed full time since 1989 at the Tylers Green First School, High Wycombe and never travelled with the fair.

Mrs Helen Turner of Tylers Green First School has provided a letter stating that Diane Jones has been employed by the school on a full time basis since 31st July 1989 and has lived at Fair Ground Caravans during this time.

Aerial Photograph

The aerial photograph was taken on 30th May 2009 and shows that the building was constructed on that date. The building has therefore become lawful as it was substantially completed more than 4 years ago.

CONCLUSION

The facts relating to this application show that the building was constructed approximately 15 years ago. The submitted evidence also shows that the building has been substantially completed and used as a single dwellinghouse for a period in excess of 4 years and is therefore lawful.

The applicant has provided evidence in the form of a Sworn Affidavit, a letter, plans and an aerial photograph. The evidence proves on the balance of probability that the building was completed more than 4 years ago and the building has been used continuously as a single dwellinghouse for a period in excess of 4 years. Therefore the certificate should be **granted**.