



Delegated Report

Lawful Development Certificate (Existing)

Application No: 20240049

Location: Coles Grove, Chandlers Road, Harvel, Gravesend, Kent, DA13 0DB

Description: Application for a Lawful Development Certificate in respect of the existing use of the outbuilding as stables and general storage of materials.

Applicant: Mr Tom Kimber

Submitted Documents/Plans

- Application Form – dated 19 January 2024;
- Supplementary Information – Supporting Statement (19 January 2024);
- Supplementary Information – Signed Affidavits (1-2);
- Supplementary Information – Structural Report (December 2023);
- Drawing no. 265-PD-01 – Site Location Plan (scale – 1:1250);
- Drawing no. 265-PD-02 – Existing Floor Plans and Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20180225	Erection of a single storey rear extension.	PERMITTED	03.08.2018
20161200	Erection of a single storey rear extension with balcony over accessed by wrought iron staircase and erection of first floor side extension.	REFUSED	03.03.2017
19610196	Erection of extension to dwelling	PERMITTED	05.07.1961
19590177	Formation of residential and holiday caravan site.	REFUSED	17.07.1959
19520240	Site for bungalow	REFUSED	12.11.1952
19490162	Erection of dwelling house	REFUSED	02.09.1949
19490146	Use of land for erection of dwelling house	REFUSED	29.09.1949

Consultations, Publicity and Representations

This is an application for a Lawful Development Certificate that is considered on its facts and relevant planning law. As confirmed in national planning guidance, views expressed by third parties on the planning merits of such cases are irrelevant. Accordingly, unlike planning applications, there is no statutory requirement to undertake publicity or consultation.

Legislation

The Town and Country Planning Act (1990) (as amended) Section 191: Certificate of Lawfulness of existing use or development.

Procedure for determination

This application seeks a determination by the Local Planning Authority as to the whether the concrete framed building is a lawful use as it has been constructed for more than 4 years as set out under s.171B (1) of the Town and Country Planning Act 1990.

National Planning Guidance on determining applications of Lawful Development Certificates for existing uses or development is clear in stating that the onus is on the applicant to provide sufficient information to demonstrate that the use of development is lawful beyond any reasonable doubt. Furthermore, in the case of an application for exiting uses, 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 applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

To confirm the lawful status and use of the outbuilding, the Local Planning Authority need to be satisfied that the building was constructed and has been in situ for at least 4 years.

Analysis

This application is for a Lawful Development Certificate and not for a planning permission. As such, the planning merits of the case are not relevant. The determination must be based on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests with the applicant and the evidence submitted must be sufficiently precise and unambiguous to enable the Local Planning Authority to understand exactly what is involved. The decision must be made on the balance of probability. The case officer has had regard to the advice contained in the National Planning Practice Guidance (the section relating to LDCs, paragraphs 005 to 009).

Coles Grove is a detached single family dwelling located on the southern side of Chandlers Road in Harvel. The property benefits from a large curtilage and a number of outbuildings, one of which is the subject of this Lawful Development Certificate. The building in question is located to the side of the main dwelling, separated by some 55.6m from the flank wall.



The evidence provided to support this application consists of plans, historic satellite photographs, a historic map, statutory declarations, photographs of the structure and a structural report.

The Local Planning Authority have considered the evidence presented as part of this application and have undertaken an investigation to validate the aerial images provided. These corroborate with the submitted evidence and suggest that the structure has been in situ since at least 1990. The structure does not appear to have been extended or altered since this point, and would therefore be considered to have been

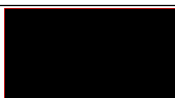
constructed for use as a stable block. This is supported by the other parts of evidence, in the form of dated statutory declarations, which confirm that upon purchase of the property in 2000 the building was a stable.

Therefore, notwithstanding the Local Planning Authorities investigation, the evidence provided in this case is considered to, on the balance of probabilities, prove that the building was constructed at some point before 1990 as a stable block, has been in place for in excess of 4 years and would be lawful through the passage of time.

Conclusion

On the balance of probabilities and in the absence of any evidence to the contrary, it is considered that the concrete structure is lawful by reason of Section 171B (1) of the Town and Country Planning Act 1990, as amended.

The use is therefore lawful by reason of Section 191(3) (a) of the Act and Certificate of Existing Use is duly issued.

Recommendation: Grant Lawful Development Certificate			
Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	18 th March 2024	Dated:	18 March 2024