



Delegated Report

Lawful Development Certificate (Existing) Application

Planning Application No:	20230344
Location:	Oaklands Farm, Priestwood Road, Meopham, Gravesend
Description:	Application for an existing Lawful Development Certificate in respect of the existing residential use of a former agricultural outbuilding for over four years.
Applicant:	Edward Ellis
Site Visit Date:	6 June 2023

Submitted Documents/Plans

Application form

Covering letter dated 3 April 2023

Drawing no. P22-2794_DE_001_001 Rev. A (Site Location Plan)

List of evidence including: BT Evidence Bills, Gas and Boiler Invoices, General Purchases Bills and Receipts, Insurance and Electoral Register Evidence, Kitchen and Bathroom Payment Receipts, Photographs, PlusNet Bills, Septic Tank Bills, Sky Bills

Relevant Planning History

Reference	Description	Decision	Decision Date
20030573	Variation of condition 3 of planning permission reference number GR/2000/451 (for alterations and construction of a new pitched roof over existing dwelling) to allow the installation of a velux window in front roof slope and installation of a window in both side elevations.	Permitted	02.09.2003
20000118	Demolition of existing dwelling and erection of 2 bedroom dwelling and installation of cesspool.	Refused	13.04.2000
20000451	Alterations and construction of new pitched roof over existing dwelling	Permitted	07.08.2000
19960376	Renewal of planning permission GR/95/182 for retention of mobile home for residential use by an agricultural worker.	Permitted	07.10.1996
19970794	The use of the building, coloured red on the attached plan, for residential purposes and the use of land outlined in red on the attached plan for a residential curtilage has subsisted for a period in excess of 4 (four) years.	Granted	29.12.1998
19950182	Retention of mobile home for residential use by an agricultural worker.	Permitted	26.05.1995
19910741	Retention of mobile home for residential use by an agriculture worker.	Permitted	26.02.1992

19900454	Retention of mobile home for residential use for agricultural worker and construction of a cesspool and continued use of land as a poultry farm.	Refused	16.11.1990
19900453	Outline application for erection of agricultural workers farm house and construction of cesspool.	Refused	16.11.1990
19500137	Use of land for erection of bungalow	Permitted	06.11.1950

Development Plan

As this is an application for a Lawful Development Certificate the matter is dealt with on the basis of an assessment of the available evidence; the issue of whether the use complies or not with the Development Plan does not apply in such circumstances.

Consultations, Publicity and Representations

There is no statutory requirement to consult third parties. However, the application has been advertised by individual neighbour letters to 1 property. The consultation period expired on 30 May 2023.

No letters of representation have been received.

Meopham Parish Council

Meopham Parish Council have been provided with no additional information on this application that would influence the decision and cannot confirm or otherwise the clients claim.

Dickens' Country Protection Society

The Society notes the site is in an area within which Green Belt Policies apply and the North Downs Area of Outstanding Natural Beauty. In the Society's view insufficient relevant information has been submitted to enable to application to be determined. There is no evidence of previous agricultural use and the current use may be in breach.

However, as this is a lawful development certificate application, any views expressed by third parties are irrelevant in the determination of the application.

Analysis

The application seeks to determine that the existing residential use of a former agricultural outbuilding is lawful for planning purposes under Section 191 of the Town and Country Planning Act 1990 by virtue of the passage of time. In relation to time limits, Section 171B of the Town and Country Planning Act 1990 prescribes:

- (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

In order to determine this application for a Lawful Development Certificate and in accordance with S171B of the Town and Country Planning Act 1990 (as amended), it must be established whether or not the building

has been in residential use for more than 4 consecutive years, i.e. since April 2019.

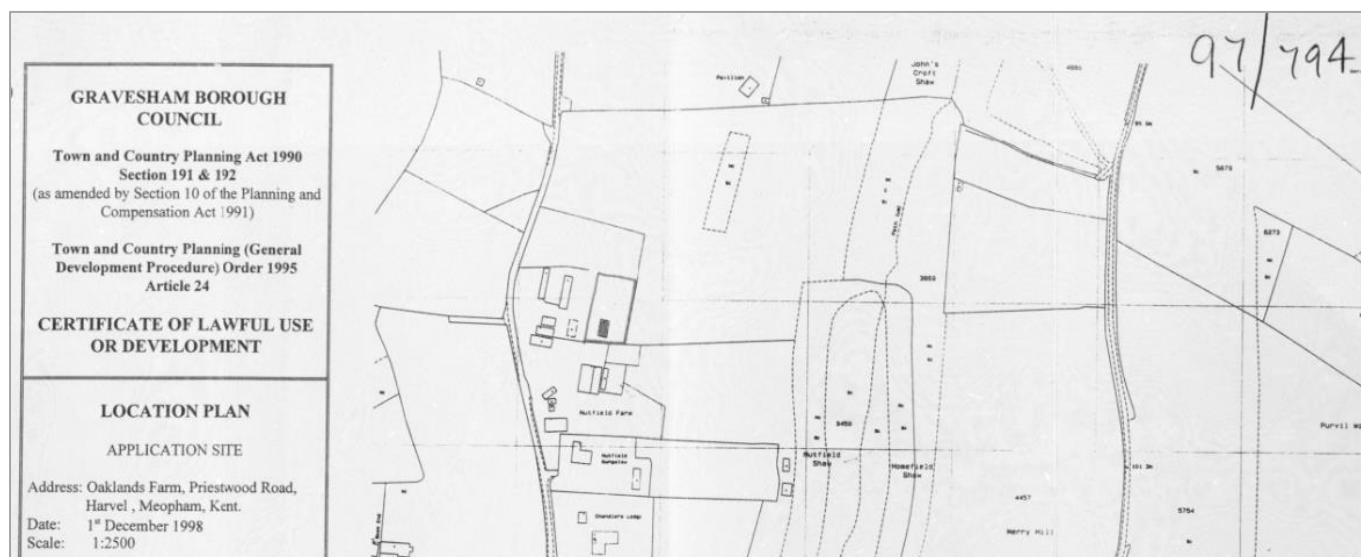
Para. 6 of the Government Guidance on Lawful Development Certificates states that:

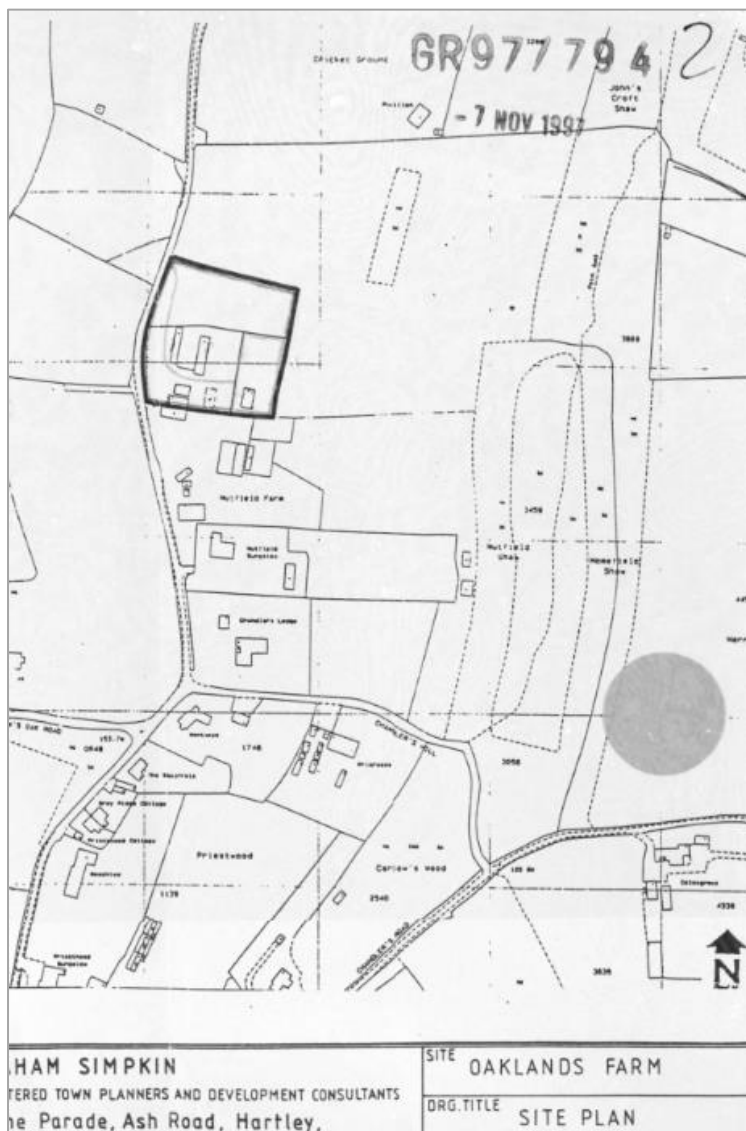
'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.'

Background

Oaklands Farm comprises a number of agricultural buildings associated with a previous farm use. The previous planning history of the site includes application 19970794, where a Lawful Development Certificate was granted as the application building and land had been in continuous residential use for 4 years.

97/0794

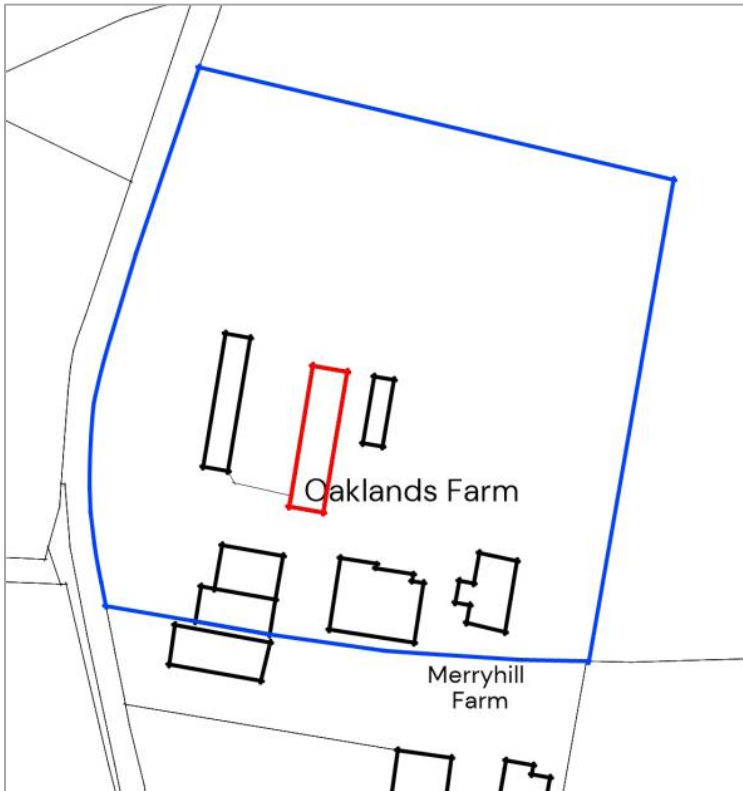




The submitted covering letter sets out the sequence of events running up to the present time. The whole site has been owned by the applicant since 2008, when the family moved into the dwelling that had been granted a lawful development certificate.

The current application seeks to clarify the residential use of a separate outbuilding over time:

Submitted Site Location Plan:



The outbuilding was vacant when the applicant first bought the site. After a storm in 2010 the roof collapsed, and this was rebuilt in 2011, initially remaining vacant. The roof restoration was followed by the installation of windows and new internal partition walls, which was completed in 2012. Following this, over time the building was transformed into the dwelling that it is currently used as today. It was originally used as a playroom, then becoming an annexe used by visitors staying overnight, and in 2017 it is stated that the applicant moved in and fully occupied the building, with their child moving into the original dwelling. The outbuilding is currently clearly in residential use.

Google Earth Image April 2007



Google Earth Image March 2011



The above image would concur with the timing of the roof work being stated to be undertaken and the visible change to the roof subsequently. However, there is nothing on these aerial images to specifically indicate the residential use of the building.

Google Earth Image 2018



Google Earth Image August 2022



Current site photos:





Review of Submitted Evidence

The applicant has submitted evidence to attempt to demonstrate that the building has been in residential use for more than 4 years.

The evidence from April 2019 is the most relevant to the case, though various details have been provided from before that date. The evidence prior to 2019 includes a bathroom goods order from January 2014, a kitchen order from July 2016, a septic tank collection work order from August 2016, flooring purchases from November 2016 and May 2017, a home and lifestyle insurance schedule from May 2017, BT paperwork dating from January 2018, gas refill delivery notes from February 2018, and furniture receipts (including a bed from September 2017 and wardrobes from May 2018).

After April 2019, there is paperwork for Sky package changes (though with no related address), septic tank collection paperwork, Plusnet paperwork, electoral register paperwork, gas refill paperwork, and BT bills.

Whilst these details could demonstrate and be related to the residential use of the outbuilding, the submitted evidence is all addressed as 'Oaklands Farm', which is the address of the main dwelling on the site. There is therefore nothing to indicate that the evidence relates to the outbuilding rather than the main house; BT/Sky/septic tank/gas/electoral roll etc could all be reasonably be linked to the main dwelling instead of the outbuilding.

Furthermore, having checked Council Tax records, this only encompasses one house and a caravan on the site. There is no Council knowledge of any other dwellings on the site; Council Tax has not been paid for any additional dwelling.

There is therefore no Council evidence to support the claim that the outbuilding has been in residential use for four years. Whilst this is not reason enough to refuse the application in its own right, the fact that the supporting evidence is not sufficiently precise or unambiguous to prove that the outbuilding has been in continuous residential use, and the fact that the evidence does not clearly relate to the outbuilding rather than the main house, this fails to justify that the certificate should be granted.

By examining all the evidence submitted as part of this application, it is considered that when considered as a whole and on the balance of probability, there is insufficient evidence that the outbuilding has been in continuous residential use since April 2019, and as such in excess of 4 years ago, and the proposal is therefore unlawful.

Recommendation:

Refuse Certificate.

See draft Decision.

Case Officer:	Mrs Katherine Parkin	Team Leader:	Miss Faye Hobbs
Signed:	<i>K. Parkin</i>	Signed:	
Dated:	27 June 2023	Dated:	28 June 2023