Development Control – Delegated Officer Report

Application Number: ADC/0255/09 **Recommendation – Certificate be issued**

Site: **'Keewatin', West Street, Sompting BN15 0AP**

Proposal: **Application for Certificate of Lawfulness for existing use of dwellinghouse 'Keewatin' as a dwelling unassociated with horticultural nursery**

The Application

The application relates to a detached house situated on the south side of West Street within Sompting village (which is within the 'strategic gap').

The house was completed in 1968, following outline permission S/21/64 granted on 9 July 1964 and approval of reserved matters S/61/66 granted on 27 July 1966.

On the outline permission the development is described as "Erection of a house to be occupied in connection with nursery". On the reserved matters it is described as "House to be used in conjunction with nursery". However, in neither case was any condition imposed that restricted occupation of the house. The site outlined in red on the present application differs from that on the above approved plans as it includes land to the east.

The applicant states that the house has been occupied without any nursery element since the death of his father in 1988, and after that by his mother who was retired until her death in 2007. He states that his father, who originally owned the post office to the west, grew crops in the 2 large glasshouses until they were blown down by the great storm in 1987 and that the portion of land where the glasshouses stood was sold off in 1992 (to form part of the garden of the house to the west). The remaining land has not been used for growing for 22 years and has been mainly overgrown.

Consultations and Representations

Third Parties: No comments received either to dispute or corroborate.

Planning Assessment

Under section 191 of the Town and Country Planning Act 1990 (as amended), the Council is obliged to grant a Certificate if, on the balance of probability, there is no breach of planning control and the development is outside the scope of enforcement action under section 171B of the Act.

In the instance of this case, although the house was permitted on the basis of a description that it was to be occupied in connection with the nursery, no planning condition restricting its occupation was imposed. Consequently, there was no breach of planning control even if it were immediately occupied by other persons unconnected with the nursery.

The applicant states that occupation of the house unassociated with the nursery first took place in 1988 and has continued since then. There is no need for corroboration of this (or for a statutory declaration) because there is no breach of planning control in any event.

As regards the curtilage, the original permission did not distinguish between the residential curtilage and the nursery. In practice, since 1988, only the immediate area behind the house was used as garden and the remainder had no use although most of it consists of grass that has been regularly cut. The part to the east is more overgrown, including over a ramshackle former packing shed, the roof of which has partly fallen in. The application plan has been amended to relate only to the area used as residential curtilage over the last 10 years.

Recommendation

That a Certificate of Lawfulness be issued

Description: Use of house as a dwelling unassociated with nursery.

Land at: 'Keewatin', West Street, Sompting shown outlined in red on the plan

Reason:- The occupation of the house by persons unassociated with the nursery is not in breach of planning control because it does not involve a material change of use constituting 'development' as defined by section 55 of the Act or contravene any conditions imposed on the relevant outline planning permission for the house (S/21/64) or the associated approval of reserved matters (S/61/66).

Case Officer.... [redacted]

Date.....6/8/09...