Exp 29/2

Application Number: ADC/0012/08 Recommendation – APPROVE

Site: Longacres Farm, Steyning Road, Shoreham

Proposal: Use of land for standing residential mobile home (application for Certificate of Lawfulness for existing use)

The Application

The application relates to a site used for standing a residential mobile home within the enclosed yard beside the fly-over and river. A previous application for a CLEUD in 2006 (ADC/0435/06) was refused on the grounds that the submitted evidence was inconclusive and the LPA was not satisfied, on the balance of probability, that the site had been used for the standing of a residential caravan for more than 10 years.

Consultations and Representations

ADC Assistant Solicitor: Having considered the statutory declarations, which are undisputed, I am satisfied on the balance of probabilities that a caravan has been used for residential purposes in this yard location for more than 10 years and that the certificate should be granted.

I would suggest that any certificate be drafted to ensure that it only relates to the specific area outlined in red on the plan attached to the application.

Third Parties: No representations received

Relevant Planning Policies and Guidance

Circular 10/97 "Enforcing Planning Control" Annex 8

Planning Assessment

A Certificate of Lawfulness must be granted if the 10 year time period within which enforcement action could have been taken against the unauthorised development (i.e. the use of the land for standing a residential mobile home) has expired. The basis of determination is 'balance of probability' rather than actual evidential proof. The Council has only accepted previously that a caravan had been on the site but not that it was in residential use.

In this case, the supporting evidence comprises five statutory declarations from the following people:

- David Dawson (the applicant)
- Carlie Scott (the occupier of the mobile home subject of the application)
- Ben Paterson (who has been a regular visitor to the farm since 1993)
- Ronald Dawson (the father of the applicant)

- William Smith (a regular visitor to the farm since 1994)

In summary, the evidence suggests that the site was bought by the applicant in 1988. At that time, there was a caravan on land 100m north of the site occupied by a Raymond Beech. He then moved into another caravan on the farm yard prior to 1993. The caravan has been substituted twice and replaced with a mobile home but it has always been located within the yard, near to a barn used for lambing.

At the end of 1997, Carlie Scott moved into the mobile home following the death of Mr Beech and she continues to occupy the mobile home at the present time with Mr Dawson's son.

The evidence from the statutory declarations tends to support the case for issuing a certificate. There is a clear chronology of events which sustain the argument that there has been a caravan or mobile home on the site for at least 20 years and that it has been regularly used as residential accommodation during that time. The position of the mobile home may have changed slightly over the years but it would appear to have been sited within the farm yard area.

The last application contained a letter from the District Valuer, listing the caravan as residential as recently as 2004. However, this does not necessarily mean that the caravan was not on the site or occupied before that date. Certainly, the submitted evidence on this occasion would appear to support the case quite strongly. There has been no evidence or third party submissions to the contrary.

The Council's Assistant Solicitor has stated that, in her view, she is satisfied that a certificate can be issued. It is therefore concluded that, on the balance of probability, the use is lawful.

Recommendation

That the application for a Certificate be APPROVED for the following reason:

1. The Local Planning Authority is satisfied that, on the balance of probability, the standing of the residential mobile home at 'Longacres Farm' in the position shown edged in red on the submitted location plan date stamped 4 January 2008, was commenced more than 10 years prior to the date of the application and, consequently, the use is lawful and meets the requirements of section 191 of the Town and Country Planning Act 1990.

Case Officer ..... Date 4/2/08