

WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT
DELEGATED REPORT

APPLICATION No: S6/2014/0082/LUE

SITE ADDRESS: Park Farm Equestrian Centre, Northaw Road West, Northaw

DESCRIPTION OF DEVELOPMENT: Certificate of lawfulness for continued use of the building as single dwelling

RECOMMENDATION: REFUSAL

1. SITE AND APPLICATION DESCRIPTION:

Park Farm is located to the east of Northaw and outside the main built up area of the village. The farm extends to approximately 104 hectares in area and includes land either side of Northaw Road West (B156). On the southern side of Northaw Road West is a residential dwelling with a defined curtilage adjacent to a mixed group of farm buildings, including several stable blocks, two manèges (north manège and south manège) and associated hard surfacing. The farm benefits from an established equestrian and livery use and some agricultural use in the form of hay cutting from fields. This application relates to an area of approximately 140sqm located to the east of the main equestrian centre complex of buildings.

The application site comprises a single storey timber building containing a bedroom, kitchenette, toilet and shower plus a storage area. To the rear of the building is a greenhouse. In front of the building is a veranda which is partly enclosed. In front of the veranda is an area of gravel used for outdoor seating. To the east side of the building is a flat roofed gazebo which is used to store the applicant's motorhome. Access to the site is through the stable yard area. The proposal seeks the grant of a certificate of lawfulness for continued use of the building as single dwelling.

2. SITE DESIGNATION:

The site lies within the Metropolitan Green Belt and Landscape Character Area 53 as designated in the Welwyn Hatfield District Plan 2005.

3. RELEVANT PLANNING HISTORY:

None relevant

4. ENFORCEMENT HISTORY:

None relevant

5. CONSULTATIONS:

None

6. REPRESENTATIONS:

One representation has been received from a former tenant of Park Farm which stated the following:

"I lived at Northaw manor from February 2011 until June 2013 and was tenant farmer from 1st July 2011 until June 2013.

I can say that the summer house shed was there when I arrived and that when I entered it was exactly that, a shed.

Mr crew Gee and his wife Beata stayed in the American RV. They spent 2 months away from the farm each summer and occasionally took their American RV off for other small trips.

I have never seen the summer house / shed being used for anything other than that. I have never seen anyone sleep in it and I frequently saw Mr crew gee and his leaving the American RV where they had clearly slept in it.

I am 100 percent sure that no one lived in the shed, I often see the crew gees leaving the RV for work or as they woke up.

It is ridiculous to me to suggest that anyone lived in a tiny shed that is now claimed to be a home especially when they had a luxurious American motorhome approximately 4 times the size of the shed with all mod cons inside"

6. TOWN/PARISH COUNCIL REPRESENTATIONS

None

7. MAIN PLANNING ISSUES AND RELEVANT PLANNING POLICIES:

The onus of proof in a lawful development certificate application is firmly on the applicant and the Courts have held that the relevant test of the evidence on such matters is "the balance of probability". Moreover, the Court has held (see F.W. Gabbitas v SSE and Newham LBC [1985] J.P.L. 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the Local Planning Authority have no evidence of their own, or 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". The main planning issues with this application are:

- a) Whether the applicant has proved, on the balance of probabilities, that the use of application building as a separate self-contained dwellinghouse has become lawful under the terms of Section 171 of the Town and Country Planning Act 1990 (as amended);
- b) Whether the Local Planning Authority has evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable; and

8. ANALYSIS:

a) Whether the applicant has proved, on the balance of probabilities, that the use of application building as a separate self-contained dwellinghouse has become lawful under the terms of Section 171 of the Town and Country Planning Act 1990 (as amended)

The documents in support of the application (listed in the submitted Planning Statement) consist of:-

1. 1:1250 Site Location Plan
2. Planning Statement by Davis Planning
3. Abbey Bank Statement (20/06/2009 – 20/07/2009)
 - This statement is addressed to Park Farm Equestrian Centre but does not specifically refer to the application building.
4. Santander Investment Statement (winter 20/09/10)
 - This statement is addressed to Park Farm Equestrian Centre but does not specifically refer to the application building.
5. Tesco Motor Insurance Schedule (04/09/2009)
 - This motor insurance schedule states the policyholder's address as Park Farm Equestrian Centre but does not specifically refer to the application building.
6. Letter from Mrs B.J. Johnson (18/11/2013)
 - This letter states that applicant has resided at Park Farm since 2008 but does not specifically refer to the application building.
7. Letter from Mrs Ilona J Pitt (witnessed 18/11/2013)
 - This letter is from the applicant's cousin, Mrs Ilona Pitt, and states that Mrs Ilona Pitt has visited the applicant "*at his cabin home at Park Farm Equestrian Centre at Northaw since the end of 2008*".
8. Letter from Ms Lucia Federici of Mount Carmel Kindergarten (02/12/2013)
 - This letter states that the applicant's wife, Mrs Beata Crew-Gee, commenced employment for Ms Lucia Federici in October 2008 and gave Park Farm Equestrian Centre as her home address. The letter does not specifically refer to the application building or give any indication that the Ms Federici visited the site.

9. Statutory Declaration from Mr Russell Crew-Gee & Mrs Beata Crew-Gee (undated)

- This statutory declaration from the applicant and his wife states *"At the end of November 2008 we were given permission to renovate a wooden building next to our motorhome which we completed by the end of December and it then became the equivalent of a bedsit. Russell [the applicant] upgraded the floor and build on area which provided a kitchenette and shower space plus storage."* Nowhere is it stated that the application building became the main dwelling only that it became *"the equivalent of a bedsit"*.

10. Letter from Ms Barbara Kozbial (28/11/2013)

- This letter, written in English, is from the applicant's mother-in-law, Ms Barbara Kozbial who resides in Poland. The letter states that Ms Barbara Kozbial is in regular contact with the applicant's wife Mrs Beata Crew-Gee. The letter implies that Ms Barbara Kozbial was informed that the applicant and Mrs Beata Crew-Gee moved to Park farm on the 25th September 2008 and states that *"I know they moved to the existing cabin in December 2008"* although Ms Barbara Kozbial did not visit the application site until 24th June 2010.

11. Letter from Mr Sabastian Kozbial (16/11/2013)

- This letter is from the applicant's brother-in-law, Mr Sabastian Kozbial and states that the applicant and his wife, Mrs Beata Crew-Gee, live in a cabin based on Park Farm. The letter states that *"They moved there on the 25th September, five years ago. They have made a good use of an existing building and turned it into their living space"*. The letter states that Mr Sabastian Kozbial visited the applicant and Mrs Beata Crew-Gee shortly before Christmas 2008 *"at the cabin they were living in"*.

12. Letter from Mr Edo Skender (witnessed 12/12/2013)

- This letter is from Mr Edo Skender, a friend of the applicant. Mr Skender states that the applicant *"was allowed to change an old wooden building into a living space"* and goes on to confirm that the applicant has been living at Park Farm Equestrian Centre since September 2008. The letter does not state that the applicant has ever lived in the application building.

13. Statutory Declaration from Mr Christopher Naylor (witnessed 11/12/2013)

- This statutory declaration is from Mr Christopher Naylor, a friend of the applicant. The statutory declaration states that Mr Christopher Naylor and his wife (not a signatory) have visited the applicant and Mrs Beata Crew-Gee *"at their home on several occasions since 2008 and they have always resided at the Park Farm Equestrian Centre"*. The statutory declaration does not specifically refer to the application building.

14. Statutory Declaration from Mrs Jasmine Naylor (witnessed 11/12/2013)

- This statutory declaration is from Mrs Jasmine Naylor, a friend of the applicant. The statutory declaration states that Mrs Jasmine Naylor and her husband (not a signatory) have visited the applicant and Mrs Beata Crew-Gee *“at their home on several occasions since 2008 and they have always resided at the Park Farm Equestrian Centre”*. The statutory declaration does not specifically refer to the application building.

15. Statutory Declaration (not counter signed) from Ms Caroline Main (09/12/2013)

- This statutory declaration is from Ms Caroline Main, who has known Mrs Beata Crew-Gee since September 2004 and the applicant since 2007. The statutory declaration implies that the applicant and Mrs Beata Crew-Gee moved to Park Farm *“in the autumn of 2008”*. It is stated that *“I have visited several times and am fully cognisant of their conversion of an existing outbuilding into a much needed additional basic living space which I saw once it had been completed at the end of 2008.”*

16. Letter from Mr Tadeusz Kozbial (28/11/2013)

- This letter, written in English, is from the applicant’s father-in-law, Mr Tadeusz Kozbial who resides in Poland. The letter states that Mr Tadeusz Kozbial is in regular contact with the applicant’s wife Mrs Beata Crew-Gee. The letter states the Mr Tadeusz Kozbial was notified when the applicant and Mrs Beata Crew-Gee moved to Park Farm on the 25th September 2008 and that they were allowed to use a wooden building as their home in December 2008. Mr Tadeusz Kozbial did not visit the application site until the 25th June 2010.

b) Whether the Local Planning Authority has evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable; and

The case officer, on behalf of the Local Planning Authority, visited the site on the 10th April 2014. The application site comprises a single storey timber building containing a bedroom, kitchenette, toilet and shower plus a storage area. In front of the building the roof extends over a veranda and to the rear of the building is a greenhouse. The kitchenette, toilet, shower and storage area are contained within a single room which was added to the rear of the building by the applicant. The building originally comprised a single roof plus the veranda to the front.

The statutory declaration from the applicant and his wife states *“At the end of November 2008 we were given permission to renovate a wooden building next to our motorhome which we completed by the end of December and it then became the equivalent of a bedsit. Russell [the applicant] upgraded the floor and build on area which provided a kitchenette and shower space plus storage.”*

Whilst the applicant’s state that the *“build on area”* containing the kitchenette, shower space and storage area were added in November 2008, the Local Planning Authority has evidence which make the applicant’s version of events less than probable. An aerial photograph of the site which was taken on the 8th November 2010 clearly shows the application building without the extension to the rear which now contains

the kitchenette, shower space, toilet and storage area. This evidence would indicate that on the 8th November 2010 the building was not a dwellinghouse and until recently did not contain all the facilities required for day to day living.

The Local Planning Authority has also received representation from a former tenant farmer, Mr Stuart Mann, which contradicts the applicant's evidence. Mr Stuart Mann who lived at Northaw Manor from February 2011 until June 2013 states that the application building was used as a shed and that he never saw it used for any other purpose. Mr Mann also states that he is 100% sure that no one lived in the shed and that he never saw anyone sleep in the shed.

9. CONCLUSION:

That insufficient evidence has been provided to the Local Planning Authority to prove on the balance of probabilities that the application site has been used for a period in excess of four years as an independent dwellinghouse.

RECOMMENDATION: REFUSAL

Reasons:

1. That insufficient evidence has been provided to the Local Planning Authority to prove on the balance of probabilities that the application site has been used for a period of either 4 or 10 years as an independent dwellinghouse.

First Schedule: Certificate of lawfulness for continued use of the building as single dwelling

Second Schedule: Park Farm Equestrian Centre, Northaw Road West, Northaw, EN6 4NT

REFUSED DRAWING NUMBERS:

1:1250 Site Location Plan received and dated 17 January 2014

Signature of author..... Date.....