



Planning Services
East Hampshire District Council
Penns Place
Petersfield
Hampshire
GU31 4EX

For the attention of Mrs S Ralston

Our Ref: LDC EH-6 19-JP
Your Ref:
Email: justin@southernplanning.co.uk
Date: 21st March 2022
Status:

Dear Mrs Ralston

Planning Portal Ref: PP-11130970

Re: Application for Certificate of Lawfulness for the residential use of an existing dwelling at land west of Ramblers (Brambles), Bighton Hill, Ropley, Alresford

Southern Planning Practice are instructed by Mrs I Tillen to submit an application for a Certificate of Lawfulness to establish the lawful residential use of an existing single storey dwelling.

This letter comprises the Planning Statement for the above application, which should be read in conjunction with the following documents:

- Application form and certificates

And following evidence:

- Site Location Plan Ref: EH-KB-563.03 scale 1:2500 at size A3
- Block Plan Ref: EH-KB-563.02 scale 1:500 at size A3
- A signed and dated Statutory Declaration from the applicant, Mrs I Tillen.

SOUTHERN PLANNING PRACTICE LTD

Registered Office: Youngs Yard, Churchfields, Twyford, Winchester SO21 1NN
Tel: 01962 715770 E-mail: info@southernplanning.co.uk Website: www.southernplanning.co.uk
Registered in England and Wales No. 3862030



- **Exhibit 1** – Sales particulars relating to the property in 2015
- **Exhibit 2** - Copy of Conveyance with plan of the property at The Ramblers between Frederick Harold Harfield and Sidney Joffre Evans dated 1957
- **Exhibit 3** – copies of entries from the County of Hampshire Register of Electors held by Hampshire County Council Records Office, between 1958 and 1977 relating to Mr S J Evans and his wife, Mrs G M Evans. Entries for every year from 1959 to 1977, relating to Mr & Mrs Evans residence at The Ramblers, are available if required. Examples included with the application are as follows:

Year Feb 1958 to 1959: Address: 2 Avon Cottage Petersfield Road which corresponds with Mr Evans' address given on the Conveyance document at Exhibit 2
Year Feb 1960 – 1961: Address: The Ramblers Bighton Hill
Year Feb 1965 – 1966 – same address
Year Feb 1968 – 1969 – same address
Year Feb 1972 – 1973 – same address
Year Feb 1973 – 1974 – same address
Year Feb 1974 – 1975 – same address
Year Feb 1976 - 1977 – same address
- **Exhibit 4** – Copies of documents held by the planning authority including letter from Mr Evans and letter from the Planning Authority dated 07 April 1967.
- **Exhibit 5** - Photographs taken inside the building on 18.07.2019: DSC_0146 showing light fitting and wiring



DSC_0147 showing tap connected to pipework
DSC_0148 showing electrical switch and wiring
DSC_0149 showing water tank and pipework

- **Exhibit 6** - landmark maps dated 1962 and 1975

This application is submitted with evidence to demonstrate:

1. **that the dwelling was occupied as a dwelling for more than 4 years;**
2. **that there has been no intervening uses, and**
3. **that the lawful residential of the building has not been abandoned**

Evidence of Ownership

The application property has had three different owners since 1957.

Mr & Mrs S J Evans – 1957 to 1977

Mr S Douglas – 1977 to 2015

Mrs I Tillen – 2015 to the present

The copy of the Conveyance with plan, submitted at **Exhibit 1**, between Frederick Harold Harfield and Sidney J Evans, establishes that the application premises was a dwelling at the time of the conveyance in 1957.

The copies of entries from the County of Hampshire register of electors, at **Exhibit 2**, are a sample of entries relating to Mr & Mrs Evans and demonstrate they were resident at the application property between 1959 and 1977. The remainder can be supplied to the planning authority if required. This evidence alone confirms that the property was a dwelling and was



occupied for in excess of four years.

Within the submitted Statutory Declaration, Mrs Tillen confirms that the property at The Ramblers was conveyed to her ownership by Mr Stephen Douglas in 2015 and that he had owned it since 1977 when it was sold to him by Mrs Evans. Mrs Tillen also confirms that the land owned by Mr Douglas and, subsequently by herself to the present, included the application site and dwelling. Mrs Tillen confirms that she has retained and kept separate the application dwelling and site and that there has been no other intervening use during her ownership of the property. She confirms that the previous owner, Mr Douglas, advised her that he too had kept the application site separate from the agricultural land as he intended to continue the residential use through redevelopment (put forward under the Council's call for sites under its SHLAA process) during his ownership. Mrs Tillen confirms that she also promoted the site under the Council's SHLAA process in October 2017. This shows continued intention to maintain the residential use of the site.

Relevant Planning History

Planning Ref: ALR 10449 – Outline permission dated 10 March 1971 -Erection of bungalow and the discontinuance of the use of two existing bungalows as dwellings at Brambles Sutton Wood Ropley

Planning Ref: ALR 10713 Approval of details dated 18 August 1971 - Replacement bungalow and garage at The Brambles Sutton Wood Ropley

The Planning history of the property at The Ramblers confirms there were two dwellings in existence, on the land adjacent to the woods, at the time permission was granted for a replacement dwelling. This corroborates the electoral register evidence.



Other evidence relating to residential use of existing dwelling

The application and evidence are supported by the planning history held by the planning authority which confirms that the bungalows existed in 1971 when outline permission for a new dwelling at The Ramblers was granted under planning Ref: 10449 and when the reserved matters application, planning Ref: 10713, was also subsequently granted consent in the same year.

The evidence demonstrates that at the time of the 1971 consents, the property at The Ramblers was owned by Mr and Mrs Evans and they were living there with their family in the dwellings near the woods. The Planning Authority holds a copy of a letter from Mr Evans, which was written in response to a letter from the planning authority dated 07 April 1967.

Both letters are contained within **Exhibit 4** ALR 7741 Part 1. Given its contents, Mr Evans' letter clearly predate the 1971 permissions. The letter confirms Mr & Mrs Evans' plans for their daughter and son-in-law to live at The Ramblers in one of the dwellings by the woods, and that they considered that a permission requiring the loss of the 2 dwellings in exchange for one new dwelling to be excessive and unreasonable.

We have been made aware that the planning authority holds a photograph of the building taken by an officer in 2004. The photograph confirms that the building was in situ at the time the photograph was taken and had been there for some time previously.

There is other evidence, on site, that also demonstrates the application building is one of the dwellings. The applicant, in this current application, has owned the property at The Ramblers since 2015. The photographs, numbered DSC-0146 to DSC_0149, submitted **at exhibit 5** with the application relate to the application building and were taken by the applicant on 18.07.2019. The photographs show fittings inside the building that are consistent with a dwelling as follows:



- a domestic water tank that would be used for supplying water to a WC and basins etc;
- fittings and switches used for electric lighting and power. The electrical fittings remain connected to wall and ceiling surfaces/linings;
- The walls are clearly plastered, a feature of residential dwellings, and
- The wall and ceiling surfaces/linings are damaged and have not yet been repaired because they contain asbestos and are to be removed by suitably qualified contractors.

The submitted Block Plan Ref: EH-KB-564.05D of the existing site corresponds to available historical mapping of the area, as exemplified by the maps included at **exhibit 6**, near the woods as follows:

- A site survey by the applicant and currently available Ordnance Survey mapping (on which the plans submitted with the application are based)
- Plans published under planning Ref: 10449 dated 10 March 1971
- The 1982 plan supplied by you in previous correspondence

The submitted Block Plan Ref: EH-KB-563.02 and the Landmark maps, submitted at **Exhibit 6** demonstrate that the mapping of the area all show the same footprint located beyond and nearest to the south-east corner of the woods and corresponding to the location of the application dwelling existing at the site today.



Analysis of the evidence

The evidence demonstrates that:

1. that the dwelling was occupied as a dwelling for more than 4 years

The most compelling piece of documentary evidence relating to the period of occupation is the electoral register which confirms that Mr & Mrs Evans resided at the property between 1959 and 1977, a period of 18 years. This is corroborated by the planning history for the property, in particular planning consent ALR 10449 which sought the discontinuance of the residential use of the two properties in favour of the single replacement property. Whilst Mr and Mrs Evans vacated the property in 1977, this was not in compliance with the provisions of the consent for Ramblers which was not constructed in accordance with the approved plans and hence never lawfully implemented. Given this, there is clear evidence that the property was occupied for a period in excess of 4 years and its vacation by Mr and Mrs Evans did not result in the cessation of residential use.

2. that there has been no intervening uses

The property has only ever been used for residential purposes. The claims made by a third party during the course of LDC 38983/001 were entirely false and their submitted evidence (a photo) does not substantiate their claim. The building has never been used as a cow shed / milking parlour. This can be confirmed by undertaking a site inspection. It is clear from an inspection of the premises that the building was constructed as a domestic building and clearly has never been used for any other purpose. The building is too small to be used as a cow shed or milking parlour with its restricted physical dimensions. The small windows and door apertures also clearly make the building unsuitable for accommodating large animals. The domestic subdivision, fixtures and fittings also clearly point to a residential use that currently lays dormant rather than any other use.



3 . that the lawful residential of the building has not been abandoned

Case Law (Hughes v SSETR & South Holland DC) has established four factors that are relevant in the determination of abandonment, these include:

- Physical Condition;
- Length of time in use;
- Use for any other purpose, and
- Owners Intentions.

These are discussed in turn below.

Physical Condition

Despite being in a state of disrepair the property has four solid walls, window frames and a roof. A temporary roof covering was erected by Mrs Tillen and the windows boarded to weatherproof the property and prevent further deterioration.

The building is clearly not in a “ruinous” state or in a “total state of disrepair”, being the objective tests applied in appeal and Court decisions in other similar cases (see Trustees of the Earl of Lichfield's Estate v S.O.S. 1984 and Argyll and Bute 31/08/00).

There has not been total or extensive partial collapse of any significant major structural elements of the dwelling. To be in a state of ruin or total disrepair requires absence of any (or at least substantial) roof, wall floor and/or ceiling structural members. This is clearly not the case.

The building requires internal and external repairs and maintenance work to allow the continuation of residential use but this will not have necessitate complete, substantial or even partial reconstruction of the building nor planning permission. The works would have fallen within S.55 (2)(a) of the Town and Country Planning Act 1990 (TCP 1990).



Length of time in use

It is known that the property was occupied from at least 1959 until 1977 when Mr and Mrs Evans vacated the property.

The mere cessation of active residential use to a state of 'dormant' residential use is of itself not a determining factor.

It is necessary to consider whether circumstances have gone beyond a state of dormant use with reference to the factors identified in the Hughes judgement (including the physical condition of the building, previous uses and the intentions of the owner) as addressed above and below. We consider that they have not.

Use for any other purpose

This has been discussed in point 2 above. The application building has constructed as a residential dwelling and has clearly not been used for any other purpose. Claims that it may have been used as a Milking Parlour / Cow Shed are false and have not been supported by evidence.

Owner's Intentions

It has been the intention of successive owners to for the use of the residential dwellinghouse to continue. The dwelling was occupied by Mr and Mrs Evans until at least 1977, when it was purchased by Mr Douglas. During his ownership Mr Douglas kept the application site separate from the agricultural land as he intended to continue the residential use through redevelopment. The site was put forward by Mr Douglas under the Council's call for sites process. During Mrs Tillen's ownership effort has been made to weatherproof the property and invest in new utilities infrastructure. The pole mounted electricity cables that previously served the dwelling were buried in 2016 at the cost of £4,000 to ensure a modern and reliable supply of services to the property.



Conclusions

This is an application made under Section 191 (1)(a) and (b) of the 1990 Act. On the “balance of probability” there is sufficient evidence to substantiate that at the date of this application lawful residential use rights existed in the preceding period of at least 4 years and residential operational development over at least 10 years.

The use of the application site as described in the application is lawful by virtue of Section 191(2)(a) in that (notionally or ordinarily) the time for taking enforcement action has expired, in this case being 10 years and 4 years as defined by Section 171B(3) and (1); and the development does not contravene any requirements of any enforcement notice. (s191(2)(b)).

A certificate should be issued under Section 191(4) of the Act to confirm lawful use as dwelling.

We would be pleased to discuss any aspects of this case with the Council and/or to provide any further clarification of the evidence.

Yours faithfully

A handwritten signature in black ink, appearing to read "JSP", with a long horizontal flourish extending to the right.

Justin Packman, MPlan (Hons) MRTPI
Associate Director