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Mr P Isbell  
Chief Planning Officer  
Mid Suffolk District Council  
Endeavour House  
Russell Road  
Ipswich  
IP1 2BX

My Ref: 2983

24 April 2024

Dear Mr Isbell,

**Lawful Development Certificate Application  
Keepers Cottage, The Greyhound, Botesdale, IP22 1BS**

Please find enclosed an application as described above.

The basis of this application is that the property known as Keepers Cottage, shown edged red on the accompanying plan, has been used as a dwelling for a period in excess of 4 years and therefore has become lawful through the passage of time.

These facts are confirmed by the Statutory Declarations provided by Alan Gilbert, James Finnigan, Tina Finnigan, Lucy Fairbrother and Lyndsay Killaspy. The application also includes other evidence provided by Mr Gilbert together with evidence produced by Mr Chris Burnard, the owner of the premises.

The occupation of the building as a separate dwelling for a period in excess of 4 years will also be confirmed by the Council's own Council Tax records.

The Courts have held that the relevant test of the evidence on such matters is "*the balance of probability*" and that the Local Planning authority (LPA) should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "*beyond reasonable doubt*". Furthermore, the Courts have held (*F W Gabbittas v SSE and Newham LBC* [1985]) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order accepted.

Planning Practice Guidance states that if the LPA 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 LPA should proceed on the basis neither the identity of the applicant nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application.

A development, which does not have planning permission, becomes "immune" from planning enforcement action if no such action has been taken within certain time-limits. By virtue of section 191 (2) and (3) of the 1990 Act, a breach of planning control which has obtained immunity by the passage of time also becomes "lawful" for planning purposes. The time-limits for taking enforcement action are specified by Section 171B of the 1990 Act. Section 171 B(2) confirms that where there has been a breach of planning control consisting of the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

In this case, the occupation of the building as a dwelling has taken place for a period in excess of 4 years and so has become lawful through the passage of time.

The planning merits of the use are not relevant to the consideration of this application. The application can only be considered on the basis of whether the breach of the condition has been carried out for a period within which it has become immune from enforcement action having regard to the evidence provided.

The evidence submitted with this application clearly demonstrates that the occupation of the barn as a dwelling has become lawful.

Please do not hesitate to contact me should you require any further information or clarification on any matters.

Yours sincerely,

—

Phil Cobbold BA PGDip MRTPI