Thurdleigh Planning Consultancy Ltd

Planning permission and enforcement specialists

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23.09.23

Dear Sirs,

Town and Country Planning Act 1990

Application for a Lawful Development Certificate for an Existing use or operation at: Hayward Pool, Bradford Leigh, Wiltshire BA15 2RP

Thurdleigh Planning Consultancy have been instructed to prepare and submit the enclosed application for a Lawful Development Certificate for an existing dwelling (holiday let) under the provisions of Section 191 (1)(a) of the above Act. Submitted with and in support of this application are:

- The completed application forms and certificates
- A location plan
- A Statutory Declaration sworn by the applicant Shane Hayward together with supporting evidence
- A Statutory Declaration sworn by Emma Louise Hayward
- A Statutory Declaration sworn by Adam Natt
- A Statutory Declaration sworn by Stephen Mark Tovey
- A Statutory Declaration sworn by Lee Antony Hodgson
- A Statutory Declaration sworn by Mark Anthony Gumm
- A Statutory Declaration sworn by Dave Mark Cardus
- A Statutory Declaration sworn by Jeremy Edward Carr

The applicant first bought the building and land now known as Hayward Pool Fisheries in November 2012.In the summer of 2016 he built a timber building (now known as The Cabin) in the lower part of the site to store equipment used at the Fisheries, together with the storage of large containers of fish food and equestrian equipment as the applicant had just taken possession of a horse.

During the same period, the applicant converted the former fisherman's lodge at the northern end of the site to a dwelling (the subject of a separate application for lawful use). Knowing that customers previously used the former lodge at the northern part of the site, in late summer 2016 the applicant added a small kitchenette for their use within the storage building as a small tea room. Deciding that it may generate some much needed additional income, the applicant advertised the building as a holiday let. This resulted in one booking in late summer 2016.

With limited bookings, the applicant continued to use it primarily for storage of fish food and other equipment associated with the fisheries and allowed it to be used as a shelter/ tea room for his customers throughout the rest of 2016 and most of 2017. The only exception being in the summer of 2017 when it was booked for two separate overnight stays. During those periods, the storage equipment was temporarily removed and stored under tarpaulins.

With the building proving to small for the combined use, in 2017 the building was extended to the size it is today with the kichen area moved into the extended area and a decking / porch area added. It continued to be used for storage and tea making area in association with the use of the site as a fisheries until in 2018 the holiday use intensified.

Having rented it out since 2016, its primary use was for storage and as a rest room and it wasn't until 2018 that it became a regular holiday let. The applicant has regular holiday makers who have booked it each year since 2018, some for just one night, others for the weekend with a few booking it for a week each year. Of the regulars who book it for a week, attached with this submission are statutory declarations from four of those who have used it. The applicant has continued to rent it out and in June of this year he advertised it on AirB&B with the use intensifying as a result.

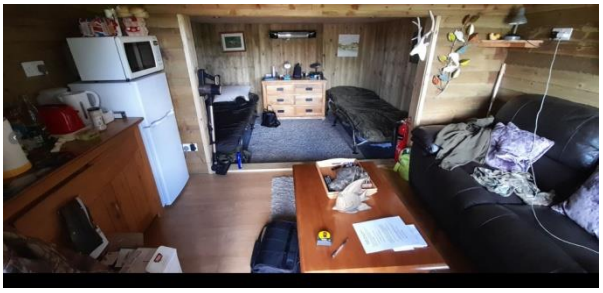
The Cabin as shown below, consists of a lounge / kitchen area, bedroom and porch. A toilet block which contains a w.c, sink and shower, exists adjacent to the parking area near the entrance of the site. The toilet block, the applicant erected in early summer 2016 for the use of those who fish at the site, the toilet block is also shown below. The toilet block is now used both by those who fish at Hayward Fisheries and those who holiday in the holiday accommodation. The Cabin has bottled gas and is connected to the mains water supply.



Plan showing the Cabin (holiday let) inc toilet block.



External photo of The Cabin (holiday let)




Internal photos of The Cabin (holiday let)



Photo of toilet block

Evidence is submitted which clearly demonstrates that the applicant has rented the premises as a holiday let continuously for at least the past four years prior to the date of this application.

Section 171B of the Town & Country Planning Act 1990 ("the Act") states: (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, albeit holiday let in this instance, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. (2) For the purposes of this Act uses and operations are lawful at any time— (4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application." On the basis of the above, the Council is required, in this instance, to determine, based on the balance of probability, whether the building concerned has been used as a separate dwelling (holiday use) (use class C3) for a period of 4 years or more.

The standard of evidence required for the granting of a Lawful Development Certificate is set out in Section 191 of the Town And Country Planning Act 1990. Section 191 of the Act

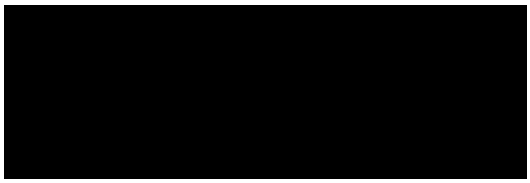
states *:-'the relevant test is the 'balance of probabilities', and authorities are advised that if they have no evidence of their own to undermine or contradict the applicants version of events, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a Certificate'.*

The evidence supporting this application which is sufficiently precise and unambiguous is believed, on the balance of probability, to demonstrate that the building concerned (at Haywards Pool), as defined on the application form, location plan and supporting evidence, has been used as a single dwellinghouse for holiday let purposes (Use Class C3) for a continuous period of at least four years prior to the date of this application. Therefore, the C3 holiday let use is lawful and accordingly, a Certificate of Lawfulness for an Existing Use should be granted.

Unless the Council has evidence to undermine or contradict the applicant's version of events, there can be no good reason to refuse this application.

I look forward to hearing from you.

Yours faithfully



Tony Phillips (Director).