

PLANNING COMMITTEE – 28 SEPTEMBER, 2005

Report of the Chief Solicitor

Miscellaneous item

Application for a Certificate of Lawful Use - Land to the side and rear of Yew Tree Cottage, Wrantage (Application No 24/2005/033LE)

Background

In May 2004 planning permission was granted for the erection of a dwelling on land to the west of Yew Tree Cottage at Wrantage (application No 24/2004/007). Work subsequently commenced and two residential caravans were parked on adjacent land for occupation by the owners whilst the house was being built.

Complaints were received from a local resident and via the Parish Council concerning the stationing of the caravans, and the owner of the land was notified that either planning permission would be needed for stationing the caravans, or the caravans would need to be re-located onto the site of the proposed dwelling. If used for occupation whilst the property was being built, permission would not be needed. The caravans were accordingly re-located.

However, during the course of these discussions, the issue of the use of the area of land adjacent to the site of the proposed dwelling for open storage was raised and in order to provide certainty, an application has been made for a Certificate of Lawful Use for the site.

A Certificate of Lawful Use is a certificate issued by the Local Planning Authority accepting a use has become lawfully established over a period of time and is, therefore, similar in that respect to a planning permission.

However, the decision is based entirely on the evidence submitted that the use has taken place for the appropriate period of time, generally ten years, and the planning merits of the use are not considered. As a consequence, there is no consultation and the application is not advertised. The decision is usually delegated to the Development Control Manager, acting on the advice of the Chief Solicitor. This application is being referred to the Committee because the applicant's partner is a member of staff, and the application for the dwelling itself was contentious locally.

The application

The application is for a Certificate of Lawful Use for the use of an area of open storage on land to the side and rear of Yew Tree Cottage at Wrantage, as

shown on the plan attached to the application. The application is supported by two statutory declarations from the applicant and his brother who have known the land since the early 1950s. These state that the land has throughout that period been used for the storage of a variety of items, including building materials and vehicles, and is distinct from the remainder of the area which has been in agricultural use. In addition there are three statements from various trades people who have visited the site during the course of their business plus a further statement from a member of the family. All the statements confirm the storage use on the land.

The Enforcement Officer has no record of having received complaints in respect of the land until the positioning of the caravans earlier this year. The use of the land for storage has not been raised.

I am therefore satisfied that the evidence submitted passes the test that the use has been continuous for at least the last ten years and a Certificate of Lawful Use should be issued. The wording of the certificate will be such that it will prevent a further intensification of the use.

Recommendation

The Committee is therefore **RECOMMENDED** to endorse the decision of the Development Control Manager to grant a Certificate of Lawful Use in respect of the use of an area of land to the side and rear of Yew Tree Cottage, Wrantage for open storage.

Chief Solicitor

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