

DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

APPROVAL RECOMMENDED: GENERAL

Select Option

1. No valid planning application objection in the form of a petition of 20 or more signatures, has been received ☐
2. Application complies with all relevant planning policies and is acceptable on planning grounds ☐
3. There is no Committee resolution for the enforcement action ☐
4. There is no effect on listed buildings or their settings ☐
5. The site is not in the Green Belt (but see 11 below) ☐

REFUSAL RECOMMENDED: GENERAL

6. Application is contrary to relevant planning policies/standards ☐
7. No petition of 20 or more signatures has been received ☐
8. Application has not been supported independently by a person/s ☐
9. The site is not in Green Belt (but see 11 below) ☐

RESIDENTIAL DEVELOPMENT

10. Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha ☐
11. Householder application in the Green Belt ☐

COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT

12. Change of use of retail units on site less than 1 ha or with less than 1000 sq m other than a change involving a loss of A1 uses ☐
13. Refusal of change of use from retail class A1 to any other use ☐
14. Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use. ☐

CERTIFICATE OF LAWFULNESS

15. Certificate of Lawfulness (for proposed use or Development) ☐
16. Certificate of Lawfulness (for existing use or Development) ☐
17. Certificate of Appropriate Alternative Development ☐

CERTIFICATE OF LAWFULNESS

18. ADVERTISEMENT CONSENT (excluding Hoardings) ☐
19. PRIOR APPROVAL APPLICATION ☐
20. OUT-OF-BOROUGH OBSERVATIONS ☐
21. CIRCULAR 18/84 APPLICATION ☐
22. CORPSEWOOD COVENANT APPLICATION ☐
23. APPROVAL OF DETAILS ☐
24. ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where Heads of Terms have already received Committee approval ☐
25. WORKS TO TREES ☐
26. OTHER (please specify) ☐

The delegation powers schedule has been checked. Director of Residents Services can determine this application.

Case Officer

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informatives are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DATES SHOULD BE USED IN THE PS2 RETURNS TO THE ODPM

Report of the Head of Planning, Transportation and Regeneration

Address STUDIO AT WATERCRESS BEDS SPRINGWELL LANE
RICKMANSWORTH

Development: Use of former garage building as residential unit for holiday/short-term let
(Application for a Certificate of Lawful Development for an Existing Development)

LBH Ref Nos: 74576/APP/2019/435

Drawing Nos: Location Plan
W-750-004
W-750-003

Date Plans Received: 05/02/2019

Date(s) of Amendment(s):

Date Application Valid: 13/02/2019

1. RECOMMENDATIONS

1.1 Recommendations

That a certificate of lawful use or development be **REFUSED** for the existing development described above in respect of the land edged red on the attached plans for the following reasons:

The existing development does not constitute Lawful Development under Section 191 of Town and Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 as the Applicant has not demonstrated that, on the balance of probability, the use has existed and been continuous for at least a period of four years, prior to the date of this application.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

2.0 APPRAISAL OF EVIDENCE SUBMITTED

This application site is located within the Green Belt, on a triangular plot which is effectively an island due to it being bordered by the River Colne to the east, Springwell Lake to the north and a man made cut to the north which diverts water from the River Colne into Springwell Lake.

The site is accessed via gates onto Springwell Lane to the north. A hard surfaced track runs along the northern site boundary and serves an existing detached chalet style dwelling which is the northernmost building within the site. Adjacent to this is a detached office building and, slightly further to the west, the building which is the subject of this application. The buildings back onto a landscaped (predominately grass) area which continues down to the banks of the river. The track continues further to the west where it provides access to a yard area.

The site itself falls within Flood Zone 3b, and is part of the functional floodplain of the River Colne..

The wider surrounding area is predominantly rural in nature. To the north, Springwell Lane is bordered by lakes, patches of woodland and small fields. The road curves to the south and east where it is flanked, on the eastern side, by the Grand Union Canal.

There is mixed residential development located on the opposing bank of the River Colne to the east. This includes two modern blocks of flats, Willow Court and Ridge House, and Lock Cottages which is a terrace of two-storey dwellings, also modern in appearance. There is further sporadic residential, light industrial and agricultural development to the south. The collection of buildings and surrounding woods and scrub land make up the Springwell Lock Conservation Area, as identified in the Hillingdon Local Plan: Part One - Strategic Policies (November 2012).

The application seeks a certificate of existing lawful use for the use of the building as a residential dwelling.

The building was formerly used for storage/administration purposes ancillary to the site's former use as a garden centre. The building has been converted without planning permission to a 3-bed house.

The application site is currently subject to an enforcement investigation.

The additional information submitted as part of this application has been reviewed by the Council's legal department, with the following comments received 19th June 2019

RE: CLEUD Application - 74576/APP/2019/435 (Studio at Watercress Beds Springwell Lane)

The Evidence Considered

An application by Mr Andrew Travers (the "Applicant") containing the standard completed application form, which encloses:

- Location plan
- Existing/Elevation plans
- Ofgem biomass boiler installation document
- Emails confirming stay
- Large purchase receipts prior to Ms Riches moving in
- Air BnB confirmation receipts June 2015 to June 2016
- Booking.com details December 2015 to August 2017
- Letter dated 5 September 2017 addressed to Mr S Travers
- Photographs

My advice is based solely on the information provided.

Comments on the Evidence Provided

The Applicant has submitted an application for a Certificate of Lawfulness for the continued use of the application building (the Studio) as a residential unit for holiday/short term let for a period in excess of 4 years prior to the date of the application.

The documents provided in support of the application set out that the Studio was formerly

the garage to the main house on the site. Case law (e.g. R v. Tunbridge Wells BC ex p Blue Boys Development (1989) and Moore v. SSE (1998)) indicate that (subject to the basic rule in Gravesham), as a matter of fact and degree buildings used as holiday homes may be regarded as dwellinghouses, falling within Use Class C3. However, it should also be noted that where a property is more in the nature of the property in the Moore case, with up to 8 rooms and a larger number of guests (as many as 20) staying at any one time, with all the associated comings and goings, vehicular movements and general disturbance associated with such a use, then this may well constitute a material change of use to a sui generis use. Where such a change of use has occurred, it will be the 10-year rule (not the 4-year rule) that will apply in relation to any claimed immunity. The holiday/short let use described in the current application does not appear to share characteristics with that in the Moore case and could fall to be considered as a change of use to a dwelling with the 4 year rule being applicable.

The application is dated 1 February 2019, accordingly the relevant 4 year period is from February 2015.

Turning to the evidence, the Studio is said to have first been occupied from 5th September 2014 to 31st December 2015, and email confirmation was provided in this respect. The last email in the series of exchanges is dated 8th December 2014 and refers to an extension of the occupants stay for 2 nights. The emails contained reference to payment for the occupants stay, along with what appears to be the applicant's bank details. I did not see receipts for payment, however, a hand written note headed 'Payments for Studio' was provided, setting out dates ranging from 5/9/14 to 9/12/14 with various sums allocated to each date beside the occupant's name.

A note which appears to be written by the applicant (the author of the note is not identified) states that his son who has disabilities occupied the Studio as trials for long weekends from January 2015 to June 2015. Whilst the contents are noted, we usually expect such statements confirming use to identify/be signed by the author, or to be in the form of a statutory declaration which is normally accorded more weight.

Further evidence of booking confirmation details through Airbnb (June 2015 to June 2016) and Booking.com (December 2015 to August 2017) were submitted. Please check whether the applicant meant to set out the Booking.com dates as December 2016 to August 2017. It is not apparent from looking at the Airbnb booking sheets that it relates to the Studio and the applicant will need to confirm the link between the booking provided and the Studio. The Booking.com document includes the heading 'Lake Views Reservations'. It is unclear whether that is the name which has been used for the Studio for booking purposes, or whether an incorrect document has been submitted in error, and I would advise that you seek clarification from the applicant on that point. The applicant's attention should also be drawn to the letter addressed to Stephen Travers at Watercress Beds, as the Studio is not referred to within the address. This is highlighted, as there are other properties on the site.

The boiler installation document is useful in that it indicates the Studio is separately metered, however it does not in itself show continuous use.

Following from the above, there is insufficient evidence to make a proper assessment on the application. In addition to the above mentioned comments, and I would advise the following:

1. Carry out a site visit to establish that the Studio is in situ and capable of being used as described in the application.

2. Request clarification of evidence (or further evidence) re the booking confirmation provided, which ideally should refer to the Studio.
3. Request a statement or statutory declaration covering any periods to date not reflected in the booking documents.

Should you be satisfied as to the use of the Studio following your investigation/receipt of further documentation, only on that basis should a certificate be granted. You are also advised that you will need to be satisfied that there is no contrary evidence relating to the application.

I note from the site history that enforcement action was taken, but the Notice was quashed on appeal. I would advise that you liaise with enforcement officers to confirm that there has been no further enforcement action.

It is for the Applicant to supply information that is sufficiently precise and unambiguous to satisfy the Council that on the balance of probability the building has been used as a residential dwelling as a holiday let for a 4 year period prior to the application.

The following documents were submitted:

- Application Form
- Location Plan
- Existing Floorplans
- Existing Elevations
- Planning Statement
- Appendix 1 Evidence - Letter from applicant's daughter
- Appendix 1 Evidence - Letter from Christ Church Chorleywood School
- Appendix 1 Evidence - Council tax band details
- Appendix 1 Evidence - Bank statement

Conclusion: Refuse

3.0 Relevant Planning History

Contact Officer: Diane Verona

Telephone No: 01895 250230