

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, Sport and Green Spaces

Address 14A FLORISTON AVENUE HILLINGDON

Development: Use of outbuilding to rear as a self-contained dwelling comprising 2 bedrooms, a lounge, a kitchen/dining room, a bathroom and a shower room (Application for a Certificate of Lawful Development for an Existing Development)

LBH Ref Nos: 47155/APP/2015/1375

Drawing Nos: 0025-BDB-01-001-ARC Issue A
0025-BDB-01-002-ARC Issue A
0025-BDB-01-003-ARC Issue A
0025-BDB-01-004-ARC Issue A
0025-BDB-01-001-DOC-A

Date Plans Received: 15/04/2015 **Date(s) of Amendment(s):**

Date Application Valid: 15/04/2015

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

The application seeks a certificate of lawful use for the conversion and use of the existing outbuilding as a self contained 2 bedroom dwelling. With such an application, the onus is on the applicant to show on a balance of probability that the residential unit has been subdivided and used as a separate residential unit continuously for a period of 4 years.

List of evidence provided:

Completed application form

Supplementary Evidence dated 12 April 2015

Plans

Appendix A -Council tax records for No.14 01/04/14 - 31/03/15

Council tax records for No.14 03/11/14 - 31/03/15 unoccupied discount applied

Council tax records for No.14A 01/04/14 - 31/03/15

Council tax records for No.14A 03/11/14 -31/03/15 unoccupied discount applied

Appendix B - confirms 14A assessed for Council tax from 01/04/08

Appendix C - 14A marketed for sale as part as No. 14 in 2014

Appendix D - 14A marketed for sale as part as No. 14 in 2012

Appendix E - witness statements from 6 residents of Floristan Avenue

Councils Legal Officers Statement:

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 outbuilding has been used a dwelling for 4 years prior to this application.

From the documents provided there is no clear line of evidence to verify 4 years of continuous use of the outbuilding. The council tax records show that there was a break in the use for a period of 4 months for 14A. The estate agent particulars only go so far in confirming the existence of 14A since 2012. Further, witness statements provided from 6 residents of Floristan Avenue are consistent in that they do, to an extent, show that in their respective knowledge "the outbuilding to the rear of 14 Floristan Avenue known as 14A Floristan Avenue has been used for letting purposes for over 4 years." Whilst the statements are relevant evidence which can be considered in support of this application, they do not however have the same weighting as statutory declarations/affidavits, which is what I would have expected to see with this type of application.

Whilst the Applicant has provided some evidence in support, I would have expected the Applicant to provide for example, full council tax records, utility bills for 14A, TV licence, letting agreements for 14A, insurance certificate etc for the entire 4 year period, however this has not been supplied.

I understand the current owners purchased 14 Floristan (which includes 14A) recently although no evidence has been provided, in any event evidence to the existence and use of the outbuilding would have been confirmed to the current owner at the time of their purchase through various enquires their solicitor would have raised of the sellers. The seller may be able to provide a statutory declaration to assist as to the use also.

From the evidence supplied it appears on the balance of probability the outbuilding was not used as dwelling more than 4 years prior to this application, this certificate should not been granted. You are advised that you will need to be satisfied that there is no evidence to suggest otherwise.

Conclusion

Following consultation from Council's Legal Team, and the full review of evidence submitted, it is concluded that the applicant has not provided sufficient evidence in support of the application for a certificate. On the balance of probability, the outbuilding has not been in continuous use as an independent dwelling for a period of four years.

The Certificate is therefore recommended for refusal.

3.0 Relevant Planning History

Contact Officer: Naim Poptani

Telephone No: