

DELEGATED FILE NOTE

CASE OFFICER: ...Alex Howard.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
24/01662/LDCE	Certificate of Lawfulness for the existing use of the outbuilding as a self- contained residential unit	Annexe At Cuckoo Hall 73 Park Lane Old Knebworth Hertfordshire SG3 6PP

Submitted Plan Nos

Location Plan SKO1

1.0 Policies

2.0 **Site History**

2.1 None.

3.0 **Representations**

3.1 None.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The application site is a large, detached dwelling and associated curtilage located on the south side of Park Lane, Old Knebworth. The site benefits from an existing detached outbuilding which is the subject of this application.

4.2 **Proposal**

4.2.1 A certificate of lawfulness (existing) is sought for the use of the outbuilding as a self-contained residential unit.

4.3 **Key Issues**

4.3.1 In line with the above, Section 171b of the Town and Country Planning Act 1990 (Amended) states that no enforcement action can be taken on a breach of planning control if a period of 10 years, beginning from the date of the breach, has surpassed.

4.3.2 The supporting information alongside this application makes the argument that the existing outbuilding, 'The Cottage', has been used as a self-contained residential unit for a period of 10 or more years.

4.3.3 As such, the applicant has submitted evidence to demonstrate that the site has been used as stated for a period of at least 10 years. This evidence includes:

- Statutory Declarations from Mr Withers, Ms Tuffrey and Estate Agents
- Completion/Performance certificates
- A list of tenancies of the building
- Letters from Estate Agents
- Rent receipts and tenancy agreements
- Bank statements
- Email from Council Tax Department

- 4.3.4 The submitted list of tenancies identifies that from July 2014 to August 2020, the building appears to have been occupied by persons as a residential unit. Whilst there are no tenancy agreements for these periods, rental receipts have been provided showing rent received consistently for the building over this period from the respective tenant. This is also supported by completion and performance certificates from Building Control, Electrical and Energy companies when the building was converted in 2014, and a statutory declaration from the Estate Agent who was responsible for renting out the building during these periods. Following August 2020, the submitted tenancy agreements largely cover the occupation of the building through to August 2024, with a few months not covered by agreements between September 2022 and June 2023. This entire period post August 2020 to August 2024, excluding September 2022 to June 2023, is supported by rental receipts. In the absence of tenancy agreements or rental receipts between September 2022 and June 2023, the application has been supported by a signed statutory declaration from the tenant and bank records showing rental deposits. Whilst it is acknowledged that there are a few months where rental receipts are not provided, these are infrequent which is not unusual for this kind of use and the submitted evidence does demonstrate that there were no changes to the tenancies in those months and the continuous use of the building was maintained. Overall, having regard to the submitted evidence and information covering the period between July 2014 and August 2024, all periods of tenancy have been evidenced by some form of documentation that supports the use and reasonable associated activities of occupying/renting out a residential unit. Therefore, it is considered that this is strong primary evidence that supports the argument put forward that the building has been used as a self-contained residential unit for a period of at least 10 years.
- 4.3.5 An email from the North Herts Council Tax Department has also been submitted as evidence, which states as follows:
- “With reference to the above address, I can confirm that council tax has been paid for the Annex since 18/7/2014 to the present date in 2024”.*
- 4.3.6 Therefore, the above statement would align with the sequence of events outlined in the submission. This is strong primary evidence as it shows that council tax has been paid consistently during the period of time, supported by the tenancy agreements, rental receipts/bank statements and statutory declarations.
- 4.3.7 The application has also been supported by a signed Statutory Declaration from Mr Withers, who is the owner of ‘The Cottage’. The contents of this document align with the argument submitted herein, that the outbuilding was converted by Mr Withers in 2014 and since that time it has been occupied by various tenants for residential use.
- 4.3.8 A site visit was conducted by the Council in August 2024 and based on the findings of that visit, the arguments and statements submitted with this application do support what was viewed on site.

Conclusion

- 4.3.9 In conclusion, the breadth of evidence submitted with this application amounts to strong primary evidence in support of the argument submitted herein that the outbuilding in question, ‘The Cottage’, has been in use as a self-contained residential unit for a period

of more than 10 years prior to the submission of this application. As such, it is considered that the evidence submitted, on the balance of probabilities, shows that the building has been used as submitted for a continuous and uninterrupted period of at least 10 years. Therefore, a certificate of lawfulness can be issued for the use of the building as a self-contained residential unit, in accordance with Section 171B of the Town and Country Planning Act 1990 (Amended).

5.0 **Recommendation**

5.1 That a certificate of lawfulness be **GRANTED** for the following reason:

1. The evidence submitted with this application supports the view that the outbuilding known as 'The Cottage' has been used as a self-contained residential unit since July 2014. As such, it is considered that the evidence submitted, on the balance of probabilities, shows that the site has been used as submitted for a continuous and uninterrupted period of at least 10 years. In accordance with Section 171B of the Town and Country Planning Act 1990, no enforcement action can be taken upon a breach of planning control if a period of 10 years has surpassed from the date of the original breach. As such, a certificate of lawfulness can be issued.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 4 September 2024	