

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	CBS	6/8/19
Planning Development Manager authorisation:	AN	8/8/19
Admin checks / despatch completed	SB	09/08/19

Application: 19/00419/LUEX

Town / Parish: Clacton non-parished

Applicant: Mr M Bareham

Address: 116A Jaywick Lane Clacton On Sea Essex

Development: Claim for a Certificate of Lawfulness: Use of games room as an independent dwelling unit.

1. Town / Parish Council

Not Applicable as non-parished

2. Consultation Responses

None received

3. Planning History

19/00419/LUEX	Claim for a Certificate of Lawfulness: Use of games room as an independent dwelling unit.	Current
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4. Relevant Policies / Government Guidance

The Town & Country Planning Act 1990; Section 191 (1) (a)

5. Officer Appraisal (including Site Description and Proposal)

The Planning and Compensation Act 1991 introduced rolling time limits within which local planning authorities can take planning enforcement action against breaches of planning control.

The time limits are:

- four years for building, engineering, mining or other operations in, on, over or under land, without planning permission. This development becomes immune from enforcement action four years after the operations are substantially completed
- four years for the change of use of a building, or part of a building, to use as a single dwelling house. Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken
- 10 years for all other development. The 10 year period runs from the date the breach of planning control was committed

Once these time limits have passed, the development becomes lawful, in terms of planning.

Subsection (1) of section 191 provides for an application to determine whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes

Applications for Lawful Development Certificates should include the following information:

- whether the application relates to:
 - a use
 - a building operation
 - a condition not complied with
- the date that the use started
- any use class the applicant considers to be applicable
- the reasons the applicant thinks he is entitled to a Lawful Development Certificate
- any other relevant information
- a plan identifying the land
- a certificate as to the applicant's interest (ownership, tenancy etc.) in the land and any interest of any other person

Question 7 of the application form submitted on 13th March 2019 confirms that the application relates to a use.

Question 10 of the application form submitted on 13th March 2019 confirms that the use begun on 15th December 2013.

Question 7 of the application form submitted on 13th March 2019 confirms that the application relates to an existing C3 use. Question 8 of the application form states that this is a self-contained dwelling.

Question 9 of the application form submitted on 28th May 2019 confirms that the grounds for the Lawful Development Certificate are that the use as a dwelling began more than 4 years before the date of the application

An application plan identifies the land to which the application relates as land edged red. Other land in the applicant's ownership is

Question 5 of the application form submitted on 13th March 2019 confirms that the applicant's interest in the land is as the owner

It is up to the person applying for a Lawful Development Certificate for an existing use to show the proper evidence. This could include:

- proof that any use has been carried on continuously for a period of 4 years

The following evidence has been submitted in support of the LDC:-

Identity	Type of Evidence	Date
Stanfords	Statement re Application	March 2019
Tending District Council	Planning Contravention Notice	28 October 2013
Southern Electric	Electricity bills	2017-2018
Anglian Plumbing and Heating	Invoices	2014-2017
Steve Wilby	Receipted Invoices	2014-2015
Landscape Services	Invoice	14 August 2015
Classic Interiors	Invoice	18 March 2016
Paul Smith Glazier	Invoices	2013-2015
Peter Baker	Invoice	1 August 2014
Peter Baker	Invoice	10 March 2015
Peter Baker	Invoice	22 July 2016
The Applicant	Statement	17 June 2019
Homeview Surveillance	Alarm Installation Certificate	February 2012

Section 191 of the Town and Country Planning Act 1990 is the relevant section when dealing with issues of Certificates of Lawful Use or Development. Section 191 (1) (a) states that the use will be lawful if no enforcement action or Breach of Condition Notice could be served and, that the use or development does not constitute a contravention of any of the requirements of any Enforcement