

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	16 th Dec 2020
Planning Development Manager authorisation:	SCE	18.12.2020
Admin checks / despatch completed	DB	18.12.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	CC	18.12.2020

Application: 20/01560/LUEX **Town / Parish:** Little Bromley Parish Council

Applicant: Mrs M Cooper

Address: Mulleys Farm Bentley Road Little Bromley

Development: Lawful development certificate for existing and continued use of building for storage.

1. Town / Parish Council

Mrs Dawn Sauka - Little Bromley Parish Council
11.12.2020

Little Bromley parish Council has no objection to this application for STORAGE use, providing that there is no environmental impact and no loss of amenity on the surrounding area.

2. Consultation Responses

None received.

3. Planning History

03/01778/FUL	Rear extension	Approved	21.10.2003
05/01218/FUL	Temporary permission for siting of caravan whilst rebuilding of Mulley Cottage is carried out.	Approved	17.10.2005
07/02031/FUL	Change of use of 3 No. agricultural buildings to storage (B8 Use), retention of 3 No. agricultural buildings in storage (B8 use) and retention of 2 No. former agricultural buildings for use by Brick Logic (B2 Use). As amended by letter and attached plan dated 7th May 2008 and amplified by letter dated 20 May 2008 and External Lighting plan received on 10 June 2008.	Approved	11.07.2008
18/01888/FUL	Change of use of agricultural and storage buildings to mixed open use (B1, B2 and B8) and the erection of an extension following the removal of a lean-to structure.	Refused	25.10.2019
20/01560/LUEX	Lawful development certificate for existing and continued use of building for storage.	Current	

4. Relevant Legislation

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

5. Officer Appraisal

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:

- o 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
- o 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
- o 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:

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

Question 4 of the application form submitted on 4th November 2020 confirms that the application relates to a use.

Question 7 of the application form submitted on 4th November 2020 confirms that the use begun in 1st July 2007.

Question 5 of the application form submitted on 4th November 2020 confirms that the application relates to the existing use of the building and land for storage purposes (Class B8).

Question 6 of the application form submitted on 4th November 2020 confirms that the grounds for the Lawful Development Certificate are that the use began more than 10 years before the date of the application.

Un-numbered Site Plan, received 4th November 2020, identifies the land to which the application relates.

Question 10 of the application form submitted on 4th November 2020 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:

- o proof that any use has been carried on continuously for a period of 10 years

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

Person	Type of Evidence	Date
Mary Ann Cooper	Statutory Declaration	29 th October 2020
Steve Barnard	Email confirmation of occupancy	January 2007 to January 2008
Andy Dobson	Email confirmation of occupancy	February 2008 to February 2010
Mark Smart	Email confirmation of occupancy	March 2010 to April 2012
Darren Brooks	Statement confirmation of occupancy	June 2012 to December 2013
Philip Milsom	Statement confirmation of occupancy	January 2014 to present date

In regards to the evidence which is available to the Local Planning Authority this amounts to:-

An application for planning permission, reference 07/02031/FUL	"Change of use of 3 No. agricultural buildings to storage (B8 Use), retention of 3 No. agricultural buildings in storage (B8 use) and retention of 2 No. former agricultural buildings for use by Brick Logic (B2 Use). As amended by letter and attached plan dated 7th May 2008 and amplified by letter dated 20 May 2008 and External Lighting plan received on 10 June 2008."	Application approved July 2008
Enforcement Complaint	Alleged change of use of agricultural buildings to industrial.	June 2011
Appeal Decision against refusal of planning application 18/01888/FUL	"Planning permission was granted in 2008 for use of six of the buildings for B8 storage and two buildings for B2 industrial use. The latter two buildings are adjacent to the eastern boundary of the site. A condition attached to that permission restricted those two buildings to use by a named occupier. That occupier has vacated the buildings. Therefore, the authorised use of the majority of the site, excluding the two buildings referred to, is for B8 storage use."	Appeal allowed; 21 st October 2020
Enforcement Complaint	Alleged business operations at farm and possible breaches of condition as to earlier planning permissions.	February 2019

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 Notice then extant. In this case there is no record of an Enforcement Notice in respect of this property.

Circular 10/97 'Enforcing Planning Control - legislative provisions and procedural requirements' states that if a certificate is for a use of land - unless the use falls within one of the "use classes" specified in the Use Classes Order (UCO) current at the time, or the certificate is granted on the basis that a specific grant of planning permission confers, lawfulness on the use it is important for it to state the limits of the use at a particular date. These details will not be legally equivalent to a planning condition or limitation. They will be a point of reference, specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies, or changes in some way to the point where a "material" change of use takes place, the LPA may then take enforcement action against that subsequent breach of planning control (which a less precise certificate might well preclude). A LDC must therefore be precisely drafted in all respects.

By virtue of section 191(5)(b), a LDC must include a description of the use, operations or other matter for which it is granted regardless of whether the matters fall within a "use class" of the UCO. But where within a "use class", a LDC must also specify the relevant "class". In all cases the description must be more than simply a title or label, if future interpretational problems are to be avoided. The LDC should therefore state the characteristics of the matter so as to define it unambiguously.

Evidence available to the LPA, in conjunction with statements received from interested parties in addition to observation made by the Planning Inspector lead the LPA to conclude that they are entirely satisfied that the use class is correctly described as B8 (Storage).

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The local planning authority are satisfied that, on the balance of probabilities the buildings included within the red outlined site plan submitted on 4th November for Mulleys Farm, Bentley Road, Little Bromley, Manningtree, CO11 2PL have been used as use class B8 (storage) for a period of 10 years, that this use has not been supervened by another material change of use and nor has it been abandoned.

6. Recommendation

Lawful Use Certificate Granted

7. Conditions / Reasons for Refusal

- 1 The local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable that the buildings included within the red outlined site plan submitted on 4th November for Mulleys Farm, Bentley Road, Little Bromley, Manningtree, CO11 2PL have been used as use class B8 (storage) for a period of 10 years, that this use has not been supervened by another material change of use and nor has it been abandoned.

8. Informatives

Are there any letters to be sent to applicant / agent with the decision?		NO
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