

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AL	12/02/2021
Planning Development Manager authorisation:	TF	12/02/2021
Admin checks / despatch completed	CC	15.02.2021
Technician Final Checks/ Scanned / LC Notified / UU Emails:	DB	15.02.2021

Application: 20/01588/LUEX **Town / Parish:** Alresford Parish Council

Applicant: Lane Homes Construction Ltd

Address: Annexe at Sherbro Colchester Main Road Alresford

Development: Occupation of the Annexe at Sherbro as a separate and independent residential dwelling, in breach of Condition 1 of planning permission 07/00846/FUL.

1. Town / Parish Council

Alresford Parish Council Alresford Parish Council have no objection to this application.
07.01.2021

2. Consultation Responses

Not applicable.

3. Planning History

01/01689/FUL	Construction of two blocks comprising 20 kennels in total and outside covered runs	Approved	20.12.2001
01/01690/FUL	Construction of block of 4 section cattery and inside covered exercise areas	Approved	20.12.2001
99/00954/FUL	Construction of block of one isolation kennel and outside covered run	Approved	05.08.1999
99/00955/FUL	Construction of block of ten boarding kennels and outside runs (covered)	Approved	05.08.1999
03/00699/FUL	Variation to change the size and construction of kennels and cattery previously approved under planning permission 01/01689/FUL. Extension to form food preparation area, and retention of new perimeter fence.	Approved	06.06.2003
05/01158/FUL	Alterations and Additions to Dwelling, Including an Annexe for the use of a Disabled Person.	Approved	05.09.2005

82/00723/FUL	Alterations and extensions to form two storey dwelling	Approved	17.08.1982
83/00266/FUL	Continued use of premises as dog breeding and boarding kennels on a permanent basis	Approved	04.05.1983
84/00428/FUL	Kennel reception building/sales office	Approved	31.05.1984
84/00794/FUL	Detached house and double garage	Refused	21.08.1984
79/01504/OUT	4 Bedroomed detached house and double garage	Refused	03.01.1980
79/01505/OUT	3/4 Bedroomed detached bungalow and double garage	Refused	03.01.1980
80/00220/FUL	Erection of stables (private use only)	Approved	15.04.1980
80/00221/FUL	Erection of dog breeding and boarding kennels	Approved	25.03.1980
80/00487/FUL	Lounge and kitchen extension	Approved	17.06.1980
80/01905/FUL	Pre-fabricated timber and asbestos outbuilding	Approved	20.01.1981
79/00248/FUL	Additional use of existing smallholding for dog breeding and boarding kennels	Approved	17.04.1979
79/01334/FUL	Erection of buildings and additional use of smallholding for dog breeding and boarding kennels	Refused	06.12.1979
79/01335/FUL	Erection of building for pet food and accessory sales in association with breeding and boarding kennels	Refused	06.12.1979
07/00846/FUL	Alterations and additions to dwelling including an annexe for the use of a disabled person. Revisions to existing planning approval no. 05/01158/FUL to reflect minor changes on 'as built' situation.	Approved	27.09.2007

4. Relevant Policies / Government Guidance

Not applicable.

5. Officer Appraisal (including Site Description and Proposal)

Site Description

This application relates to the property known as Sherbro and the adjoining Annexe located on the eastern side of Colchester Main Road / Tenpenny Hill within the Parish of Alresford. Access to the site is off a parallel spur road which serves other existing residential properties. To the front of the property is a large hardsurfaced area providing ample parking and turning. The property is set back within its plot with some mature trees and vegetation along the front boundary.

Description of Proposal

The application seeks a Lawful Development Certificate for an Existing use in breach of a planning condition under the Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991.

In this instance, the evidence submitted seeks to demonstrate that the site has been occupied as two separate and independent residential dwellings, in breach of Condition 1 of planning permission 07/00846/FUL (ancillary annexe accommodation only) continuously for at least four years prior to the date of the application.

Main Considerations

The National Planning Policy Guidance explains the process for obtaining a lawful development certificate and how the application should be determined. The keys points being:

- The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application (Paragraph: 006 Reference ID: 17c-006-20140306).
- A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process (Paragraph: 009 Reference ID: 17c-009-20140306).

Assessment

The applicant, in support of the application has submitted the following documents:

Drawings

- An existing site location & block plan (dwg LC2.00D) - which outlines how the site was subdivided into two separate curtilages, which have been independently used for residential purposes since 2007;
- Floor plans & elevations as approved by PP 07/00846/FUL (dwg LC2.01A) - which outlines the floor plans & elevations as approved by PP 07/00846/FUL, which were not, however, implemented in that form or used entirely in that manner, in order to provide for a fully independent form of residential occupation separate from Sherbro House;
- Existing floor plans & elevations (dwg LC2.02B) - which outline how the Annexe was constructed & used in a manner which provided for a fully independent form of residential occupation separate from Sherbro House.

Sworn Evidence

- A statutory declaration and statement of truth are provided by Mr & Mrs Christie and Mr McQuillan, as testimony that they have respectively occupied Sherbro Annexe and Sherbro House as two separate and independent dwellinghouses.

Both declarations are supported by a red lined Land Registry Title Plan showing the extent of each site.

Council Tax Records

- The most recent council tax bills issued by Tendring District Council to Mr & Mrs Christie on 4th April 2020 (Account Number 11034667) and to Mr & Mrs McQuillan on 1st March 2020 (Account Number 10511896).
- No other hard copies of bills have been provided.

The Local Planning Authority has sourced the following evidence:

Council Tax Records

On the basis that no other council tax or utility bills were provided (as these have been paper shredded following their superseding by new bills received for the forthcoming year) further information was sought from the Council Tax Department.

- An email received from the Council Tax Department dated 4th February confirms the following:
 - Council tax records for Sherbro Colchester Main Road are in name of Michael Mcquillan and Linda Mcquillan from 14.02.2003-14.11.2020. Following the passing of Linda, Michael has been resident to date by himself since 15.11.2020.
 - Annexe at Sherbro has been separately rated with its own Council Tax band since 02.12.2006. Mr Alistair Christie and Ceri Christie have been registered for Council tax since this date.
- An email from the Council's Solicitor dated 12th February provided a copy of The Valuation Office Agency (VOA) certificate confirming the separate council valuation/banding.

Conclusion

The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, Sherbro, Colchester Main Road, Alresford, Colchester, Essex CO7 8AP (Land Registry title number EX563448) and Annexe at Sherbro, Colchester Main Road, Alresford, Colchester, Essex CO7 8AP (Land Registry title number EX563448) have been occupied and used as two separate and independent C3 residential dwellings, in breach of Condition 1 of planning permission 07/00846/FUL for a continuous period of 4 years; and that this use has not been superseded by another material change of use and nor has it been abandoned.

6. Recommendation

Lawful Use Certificate Granted

7. Reasons for Approval

The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, Sherbro, Colchester Main Road, Alresford, Colchester, Essex CO7 8AP (Land Registry title number EX563448) and Annexe at Sherbro, Colchester Main Road, Alresford, Colchester, Essex CO7 8AP (Land Registry title number EX563448) have been occupied and used as two separate and independent C3 residential dwellings, in breach of Condition 1 of planning permission 07/00846/FUL for a continuous period of 4 years; and that this use has not been superseded by another material change of use and nor has it been abandoned.

8. Informatives

Not applicable.