



SAXLINGHAM NETHERGATE PARISH COUNCIL

Clerk: Mrs J King
22 Henry Preston Road
Tasburgh
NR15 1NU
Tel: (01508) 470759
e-mail: saxlinghamnethergatepc@gmail.com

Andrew Martin
South Norfolk Council
Thorpe Lodge
1 Yarmouth Road
Norwich
NR7 0DU

03 January 2023

Dear Sir,

Hill House, Saxlingham Nethergate
Application No. 2022/2086

Thank you for your email confirming arrangements for our meeting at Beech House, Saxlingham Nethergate on Monday 16 January.

May we please raise with you an important preliminary matter for clarification at (or preferably in advance of) the meeting. This will also serve to assist the Parish Council in formulating its reply to your letter dated 8 December 2022.

In TCPA s191(2) and in the context of applications for lawful development certificates, uses and operations are defined as being lawful at any time if (so far as material here) –

“(a) no enforcement action may then be taken in respect of them (whether [A] because they did not involve development or require planning permission or [B] because the time for enforcement has expired or [C] for any other reason”).

The application form in this case which is dated 4 November 2022 states –

- (i) that the application relates to an existing use, being a use which is still going on at the date of the application;
- (ii) that the existing use for which a certificate is required is described as: “Hill House – Manor House building and grounds (house curtilage) – venue for get-togethers, events, hen and stag parties and corporate use, on-site catering provision along with the provision of ancillary services, including team building and activities such as archery and tennis coaching”;
- (iii) that the use or activity began on 1 October 2007;
- (iv) that the ground on which the certificate is being sought is that the use began more than 10 years before the date of the application;

Chairman: Roger Stocks

Councillors: Chris Clements, Marie Francis, William Goff, Michael Haslam, David Moore, Jo Stevenson, Elsje Stocker, Zoe Yarham

- (v) that the reason why a certificate should be granted is “we have been operating successfully for over 10 years”;
- (vi) that there has been no material change of use since the start of the use for which a certificate is sought;
- (vii) that assistance or advice has been sought from the authority about the application which was given on 12 October, when “after an extensive on-site discussion with Andy Baines and Petra Maryon – a summary of what was required was established”.

The application form was accompanied by 25 pages of evidence purporting to verify the information in the application form, as required by article 39(2)(b) of the procedure order. The authority did not call for any further information under article 39(9) to enable them to deal with the application, but on 2 December the compliance officer handling the case did propose – and the applicant agreed – that the form be amended by substituting a more generalised form of words for the existing use(s) described in the original form. The application form was amended accordingly, and was “validated” by the authority on 2 December.

In light of the above and having examined the 25 pages/images of evidence in some detail, we find the application when read as a whole confusing and contradictory, and the evidence in places illegible. Hence the basis of the application is unclear. For example, for what reason in terms of the definition of “lawful development” in s191(2) is the applicant seeking to obtain a certificate? On which basis [A], [B] or [C] has the authority validated the application?

Is it because:

[A] the applicant claims that none of the activities at the site since 1 October 2007 (including those described in the pre-amended 4 November application form) constitute a material change of use, and since the property has at all material times continued to be used as a single dwellinghouse, no enforcement action can be taken in respect of all or any of them “because they did not involve development or require planning permission”?

In the alternative, is it because:

[B] the applicant acknowledges that breaches of planning control have occurred, but claims immunity from enforcement action “because the time for enforcement action has expired” (hence the various references to 10 years in the application form)?

Or **[C]**, has it been validated for some other reason?

This was presumably the key issue which needed to be addressed at the pre-application site meeting on 12 October, not only for the purpose of ensuring the validity of the application,

but also to assist the compliance officer in formulating the proposed 2 December amendment. While in any event the burden of proof lies squarely on the applicant, the three scenarios are fundamentally different in terms of what is required evidentially.

In three emails to us in February and May 2020 and April 2021, the compliance officer has repeatedly asserted to the effect that no material change of use has taken place to the original residential status at Hill House, as follows (emphasis added):

“I looked into this back in September following a concern raised by a resident of Saxlingham. It was my opinion that the letting of the property for holidays was not a material change of use requiring planning permission” (email, 28 February 2020);

“The property being used in this way [ie. corporate management events] does not constitute a material change of use from a dwellinghouse to an events venue” (email, 5 May 2020)

“With regard to the use of the property, the council remain of the view there has been no material change of use and the property is being used as a single dwellinghouse” (email, 1 April 2021)

If and to the extent that these assertions prove to be well-founded, then no breaches of planning control will have occurred and hence no enforcement action able to be taken. This would be potentially fatal to a claim under **[B]**, and hence leave the application to be dealt with under **[A]** (or possibly **[C]**, if applicable).

If you are able to kindly clarify this preliminary point in relation to s191(2) at or preferably before the 16th, that will be very helpful in narrowing the scope of the discussion at the meeting, and also the information we can then provide for you in reply to your 8 December letter, and hence save you having to read an unnecessarily long reply.

We shall in any event aim to write to you in detail shortly after the meeting, which we trust will give the authority time for proper consideration of the application before your 17 February extension deadline.

Yours faithfully,

A handwritten signature in blue ink, appearing to be 'Julie King', with a long horizontal stroke extending to the right.

Julie King
Parish Clerk