

**AREA NORTH COMMITTEE
25 August 2010**

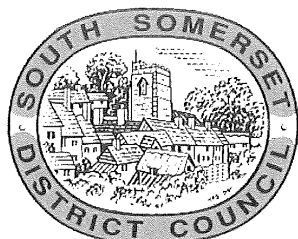
ITEMS FOR INFORMATION

The items for information do not form part of the agenda. Should members have questions regarding any of the items please contact the officer shown underneath the relevant report. If, after discussing the item with the officer and it is felt appropriate, a member may request an item to be considered at a future Committee meeting.

1. Certificates of Lawfulness

1. Certificates of Lawfulness

Members may recall that at the Area North Committee on 23 June 2010 there was a request for a written update regarding Certificates of Lawfulness. The response from the Development Manager is attached below.



The Council Offices, Brympton Way, Yeovil,
Somerset, BA20 2HT
Telephone: (01935) 462462 Fax: (01935) 462299

Website: www.southsomerset.gov.uk

Dave Norris – Development Manager



Cllr Patrick Palmer
Chairman of Area North

Date: 29th July 2010
Your Ref:
Our Ref:
Ask For: Dave Norris
Direct Line: 01935 462382
E-mail: David.Norris@southsomerset.gov.uk

Dear Chairman,

Certificate of Lawfulness – Request from Area North

I refer to your letter of the 16th July 2010 concerning the above matter.

I am aware that the submission of recent applications for Certificates of Lawfulness have raised some concerns within parishes in Area North and I can fully understand the need to clarify the consultation process.

Firstly I consider it worthwhile to outline the 2 most common forms of Certificates of Lawfulness (COL's) that we are faced with.

Certificate of Lawful Development (**existing**) - Section 191

This is probably the most common form of COL as it seeks to obtain a certificate that proves that an **existing** development is exempt from planning control (regularise the situation). This application can be justified on many different reasons, for example, that it was carried out some time ago and is now immune for enforcement (4yrs for 'built' development and dwellings and 10 yrs for a change of use) or that the development did not require permission in the first instance.

Certificate of Lawful Development (**proposed**) – Section 192

This application seeks to gain a certificate that proves that a **proposed** development will not require planning permission. Examples of this would be somebody wishing to gain legal confirmation that their house extension is within 'permitted development rights' or where somebody wishes to relocate their business within a factory that has a very similar historic use.

All applications should be accompanied by a detailed justification together with appropriate evidence e.g. a signed declaration from a neighbour stating that the development took place outside of the required time periods. These requirements often mean that the applicant will instruct either a solicitor or a planning consultant to submit the application on their behalf

Historically, we have not consulted on any COL applications on the basis that there is no statutory requirement to do so. The applications were passed to our Solicitors and they made a determination on the basis of the evidence that has been submitted and they would in turn provide the planning officer with a determination as to whether or not the certificate should be issued. However, in March/April of this year I became aware of a couple of issues, one of which was within Area North, whereby the lack of consultation had caused unnecessary concerns/speculation within the community. It quickly became evident to me that it would be in the public interest to make the local community aware of COL (**Existing**) applications.

We will therefore always consult with Ward Members and the Parish on COL's (**Existing**) on the basis that local knowledge may be helpful in assessing whether the applicant's evidence is accurate. We will also consult with neighbours where we believe that their input would be of assistance. An example of this would be where an applicant is claiming that a building has been used as a dwelling for more than 4 years and is therefore immune. In this instance, the observations of nearby residents and the parish council would be very useful.

We do not consult upon COL's (**Proposed**) as this is purely a legal determination as to whether planning permission is required and therefore third party comments would not influence our decision. We will however make sure that the Ward Member is aware that an application has been submitted but we will not be seeking their comments.

I must emphasise that ultimately the decision on all types of COL applications will be made by the Solicitor to the Council as it is a legal determination based upon the evidence we have received, taking into account any representations that are made. It is therefore not possible to discuss the merits of the application and therefore they should not be considered at an Area Committee.

I hope that this provides a clear explanation of the way in which we are now dealing with Certificates Of Lawfulness however I am more than happy to discuss the subject with individual members.

Yours sincerely

Dave Norris
Development Manager