

Our Ref: 14607

Your Ref: P/19/006/FUL

24 June 2019

Lisa Walton  
Council of the Isles of Scilly  
Town Hall  
St Mary's  
Isles of Scilly  
TR21 OLW

Dear Lisa

**Re: Penlee Boathouse, 37 Porthcressa Road, Hugh Town, St Mary's**

We have been instructed by the applicants to write to you in regard of the above application and in particular recent correspondence concerning ownership certificates.

This letter is written in response to the request made on 18 June 2019 for Certificate B to be served to the neighbouring property to the above site due to a perceived issue of overhanging. It is the argument of this letter that the serving of Certificate B is not necessary in this instance.

The reason you have given for Certificate B to be served is that a neighbouring property to the site has argued that the guttering and soffit of the site will overhang and thus part of the house is on their land, outside of the ownership of the applicant. This letter argues that all elements of the house, including the guttering and soffit are in the site boundary.

Since the existing guttering is on the applicant's property, any new guttering installed would similarly be on their property. Prior to the commencement of this application, there has been no suggestion that the existing guttering overhangs the neighbouring property. If there was an issue with overhang for the existing guttering, it would have been raised with the applicant prior to the submission of the application. Furthermore, the proposed guttering will be implemented in the same style as the existing guttering. Since the existing guttering does not overhang onto the neighbouring property, then the proposed guttering, by being in the same style, will not

overhang. Therefore, it is not necessary for Certificate B to be served.

Furthermore, as you indicated in your email to the applicant on 18 June 2019, you have not been provided with documentation to show that the guttering is not on the applicants' property. It has been taken at face value that the guttering overhangs outside the applicants' property. Given that no evidence has been provided, no opportunity to verify the claims made by the neighbour will have been made. The only evidence that has been sought for the verification of the claim was a look at the observable overhang. The existing guttering though is within the legal boundary of the property. The site location plan is drawn to be the same as the Land Registry plan, with the Land Registry plan confirming the area of land that the applicant owns, which

Furthermore, as indicated in the HM Land Registry plans: boundaries (practice guide 40, supplement 3), the guttering is part of the property unless there is evidence to the contrary. Since no evidence to the contrary has been provided, the existing guttering is part of the property and, by extension, any new guttering would be part of the property. Therefore, since any new guttering would be part of the existing property, it falls within the ownership of the applicant. This further clarifies that a Certificate B application does not need to be submitted in this instance.

Finally, it is not the responsibility of the Local Planning Authority to resolve any potential boundary disputes nor is it within their remit to "look behind" the ownership certificates served especially when no evidence has been advanced to support a claim of incorrect certificates. The application form was correctly completed, and the declaration made. There is no reason for the Local Planning Authority to question this.

I would also point out that even in the unlikely event that it was found the certificates were incorrect following the determination of the application the matter of prejudice would arise. Clearly, in this instance given the neighbouring property owner is fully aware of the application there is no cause for prejudice here. The sole purposes of ownership certificates are to inform relevant owners of applications so representations can be made. This clearly has been done.

It is hoped that this letter provides sufficient evidence to demonstrate that it is not required to serve a Certificate B notice onto the neighbouring property and the application can proceed with its determination.

Should you have any questions about this letter please do not hesitate to contact me.

Yours sincerely  
For and on behalf of Evans Jones Ltd

A handwritten signature in black ink, appearing to read 'Mark Campbell', with a stylized flourish at the end.

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