

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: AB/42/20/CLE

LOCATION: 23 Fitzalan Road
Arundel
BN18 9JP

PROPOSAL: Lawful development certificate for an existing driveway.

DESCRIPTION OF APPLICATION

The application seeks a lawful development certificate for an existing driveway. The proposal is to establish the lawful position of the driveway, constructed in August 2014.

SITE AND SURROUNDINGS

The site is a residential dwelling, in an area hosting a range of building styles and types.

RELEVANT SITE HISTORY

Noted.

REPRESENTATIONS

Representations Received:

C Baynes

None.

Comments on Representations Received:

N/A.

CONSULTATIONS

Consultations Responses Received:

None.

Comments on Consultation Responses:

N/A.

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

CONCLUSION

The existing driveway, would constitute development.

The Town and Country Planning Act S55 Para 1 states:

"Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

For the purposes of this Act " building operations " includes

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder."

The submitted builders letter detailing the construction of the driveway is sufficient to demonstrate that in all probability the development was completed on the 31st of August 2014. The works are considered to be development under (d) above.

This application was made on the 7th of May 2020. Section 191(2) of the Town and Country Planning Act 1990 is clear that evidence provided must show that the works are exempt from enforcement action, as a result of the time elapsed. Therefore, whilst the proposal would constitute development, it is exempt from any enforcement action. Therefore, the proposal is considered to be in accordance with the relevant criteria within the Town and Country Planning Act 1990.

RECOMMENDATION

APPROVE

The use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the date specified above, the driveway has been in place for a continuous period of 4 years.

FIRST SCHEDULE

The Driveway

SECOND SCHEDULE

23 Fitzalan Road, Arundel, BN18 9JP.

EXTENT OF USE

Driveway

AB/42/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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