

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: AL/91/18/CLP

LOCATION: Old Canal Residential Park
Lidsey Road
Bognor Regis

PROPOSAL: Application for certificate of lawfulness for a proposed use - The stationing of 5 additional mobile home units for residential use

DESCRIPTION OF APPLICATION

This is an application for a Certificate of Lawfulness for the proposed use - The stationing of 5 additional mobile home units for residential use.

The application site is an established mobile home site for residential use.

DESCRIPTION OF SITE AND SURROUNDINGS

RELEVANT SITE HISTORY

AL/41/97	Change of use of land for proposed 8 mobile homes for permanent residential use	ApproveConditionally 16-07-1997
AL/41/07/	Change of use of land for siting 11 mobile homes for permanent residential use (2 additional to existing)	Withdrawn 05-07-2007
AL/133/07/CLP	Application for a lawful development certificate for a proposed use - use of land for mobile homes for permanent residential use.	PP Not Required 23-01-2008

REPRESENTATIONS

Representations received:

Comments on Representations received:

CONSULTATIONS

Consultations responses received:

Comments on Consultation responses:

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."

Section 191 to 195 Town & Country Planning Act 1990 have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

- (i) What is judged on a balance of probability;
- (ii) The onus of proof is on the applicant (and not the LPA) to adduce the evidence; and
- (iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

CONCLUSIONS

The application site currently has a licence for the stationing of 5 additional caravans for residential use.

Officers note previous applications ref: AL/04/97 and AL/133/07/CLP.

Planning application ref: AL/04/97 sought a change of use of land for proposed 8 no. mobile homes for permanent residential use, which was approved with conditions.

Planning application ref: AL/133/07/CLP sought a lawful development certificate for a proposed use - use of land for mobile homes for permanent residential use. This application proposed an increase in the number of permanent residential caravans by 2. It was determined that planning permission was not required for this use. Therefore the use was deemed lawful.

Having regard to the above applications officers are satisfied that the application site is considered to be a caravan park for the stationing of permanent residential caravans. Officers note that no conditions imposed upon the aforementioned applications seek to restrict the number of caravans that can be sited upon the site.

Officers consider that the key issue here is the materiality of any impact of the proposed increase in the number of caravans. Section 192(4) of the Town and Country Planning Act 1990 states that;

'The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operation are begin, in any of the matters relevant to determining such lawfulness.'

Officers note that within the case Officer's report for application ref: A/133/07 reference is made to advice provided by the Council's Solicitor:

'There are no conditions on planning permission AL/41/97 restricting numbers. This establishes the use of the site for permanent residential caravans. Numbers are not limited by the planning permission so this allows additional caravans subject to 'intensification' not resulting in material change. Only a condition can limit uses and numbers legally and effectively'.

It is considered that the intensification of the same is not a change of use. Therefore, an increase (intensification) of the same use in this case 5 additional residential caravans would not be a material change of use.

OTHER:

While Officers use the word 'caravan' and ' residential caravan' throughout this assesment, no details have been provided to allow an assesment of the additional 5 caravans, that are to be sited, at the Old Canal Residential Park, against the legal definition of a caravan, which was established in the Caravan Sites and Control of Development Act 1960 (Section 29(1)) as amended. Therefore, it is up to the applicant to ensure that all the additional 5 caravans meet the relevant legislation with regard to size.

SUMMARY:

Overall, there is no information or evidence available to contradict the assesment made above. Therefore, it is considered that the intensification of the same is not a change of use. Therefore, Officers consider that planning permission is not required and that the proposed addition of 5 residential caravans on the site, known as Old Canal Residential Park, Lidsey Road, Aldingbourne would be Lawful.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 3rd August 2018 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, would be lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reason(s):

Intensification of the same is not a change of use. Therefore, an increase (intensification) of the same use, in this case 5 additional residential caravans, would not be a material change of use.

FIRST SCHEDULE

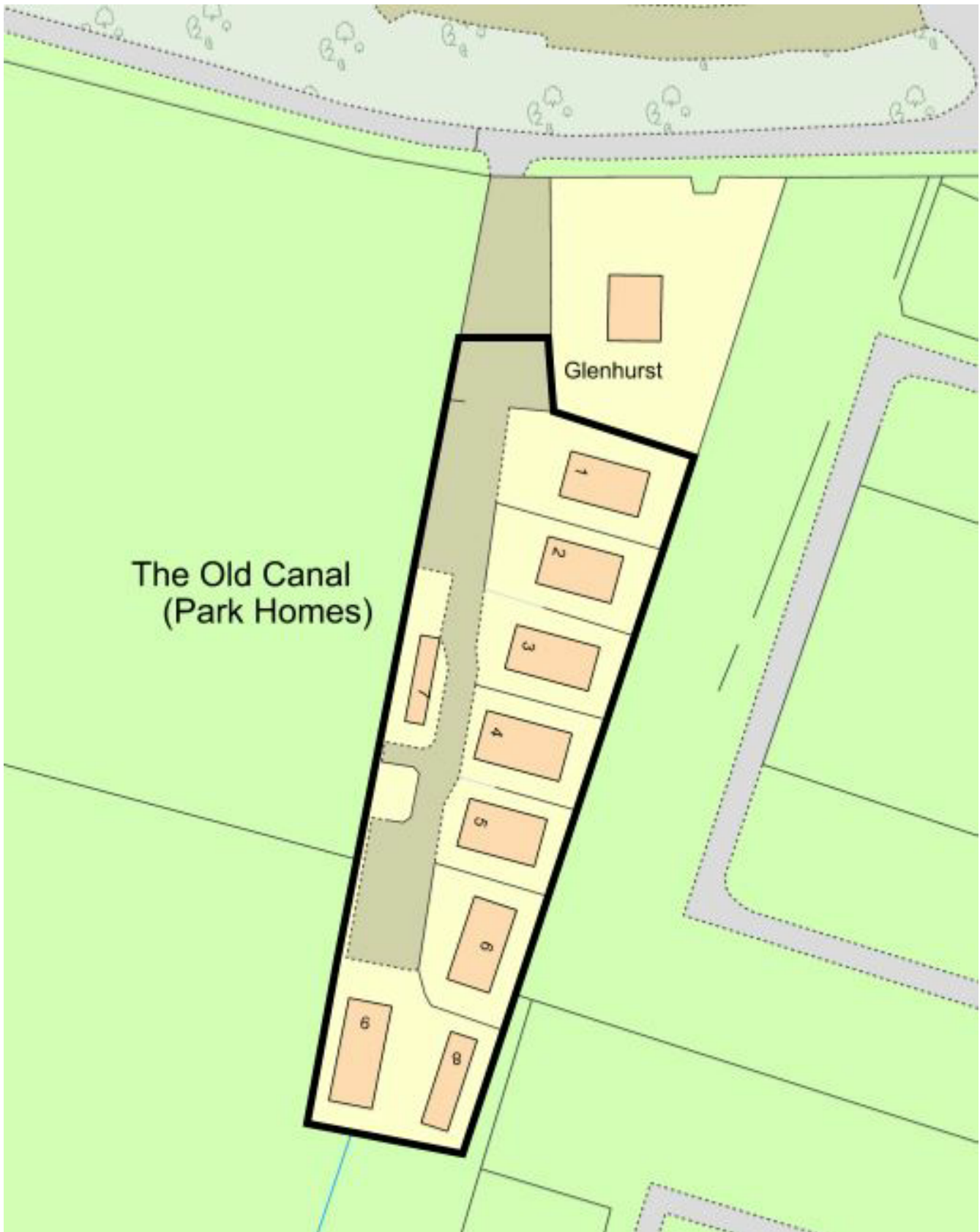
The extent of the use is for the stationing of 5 additional caravans as shown on submitted plan ref:18_921_003.

SECOND SCHEDULE

Land at Old Canal Residential Park, Lidsey Road, Bognor Regis, PO22 9PN which is shown on the plan to this certificate as within the area edged boldly in black.

EXTENT OF USE

The use of the land shown within the area edged boldly in black on the attached plan at Old Canal Residential Park, Lidsey Road, Bognor Regis, PO22 9PN for the siting of 5 additional caravans (residential).



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