

19th November 2018

Arun District Council
Planning Department
First Floor
Arun Civic Centre
Maltravers Road
Littlehampton
BN17 5LF

Dear Sir/Madam

RE: APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR AN EXISTING USE OR DEVELOPMENT: AT LAND AT BROADLEES, DAPPER'S LANE, ANGMERING

I refer to the planning approval granted consent at the above site for 53 care apartments (Ref: A/27/16/PL) in February 2017 (referred to as the '2017 permission').

I have been instructed, by Frontier Estates (Mering) Ltd, to submit an application for a Certificate of Lawfulness for an Existing Development to confirm that the above permission has been lawfully commenced.

I enclose the following documentation in support of this application, which should be read in conjunction with this letter:

- Relevant application form;
- Photographs of the site; and,
- Application fee;

The application has been submitted via the planning portal (ref: PP-07421630) with all documents submitted electronically. If a hard copy is required please do not hesitate to contact me. The relevant fee has been paid via BACS transfer.

Legal Background

Counsel's opinion has been secured from Mr Robert Walton. An extract from this opinion is set out below:

1. *"I am asked to advise whether demolishing the existing buildings would implement the 2017 Permission. In my view the answer to this is "yes".*
2. *Section 55 of the 1990 Act states that:*

(1) 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.

(1A) 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.*

3. Section 56 of the 1990 Act then provides that:

- (1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—*
 - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;*
 - (b) if the development consists of a change in use, at the time when the new use is instituted;*
 - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).*

4. *In my view the 2017 Permission authorises the demolition of the current buildings on the Site and the demolition of the existing buildings would implement the 2017 Permission (subject of course to the discharge of all relevant conditions).*
5. *I note the Council also considers that the 2017 Permission authorises the demolition of the building. Condition 19 of the 2017 Permission prevents development “... including site access, demolition or associated construction activities” until certain tree protection measures are installed. Further, the s.106 Obligation excludes demolition from the definition of “Implementation”, thereby allowing demolition to take place without making the s.106 Obligation effective / enforceable (see Clause 4). This would not be necessary if demolition would not implement the 2017 Permission”*

Implementation

Application to discharge the relevant conditions (7 and 19) were discharged on 24th September (A/111/18/DOC). The letter in relation to condition 7 (CMP) states “In this instance therefore the discharge is in part and only limited to the works of demolishing the existing property Broadlees”

Demolition of the existing building therefore commenced on 15th October 2018 and was completed on 31st October 2018. Advance notice was provided to the Council, Parish Council and Councillors to ensure all parties were aware of the intention. The demolition was undertaken without complaint.

Photographs are included with the submitted documents to support the application and confirm that the existing buildings on the site have now been demolished and therefore within the definition of a material operation; as set out within Section 56 of the Town and Country Planning Act 1990, the approved development has lawfully commenced.

Thus, a Certificate of Lawfulness for an Existing Use or Development should be approved to confirm that planning approval reference number A/27/16/PL has lawfully commenced.

I trust this is acceptable and welcome registration of the application in due course.

Should you have any queries, please do not hesitate to contact me.

Yours Sincerely

