

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** A/187/20/CLP**LOCATION:** Rond Point
Ham Manor Way
Angmering
BN16 4JQ**PROPOSAL:** Lawful development certificate for the Proposed use of land adjacent to dwelling for residential garden use.**DESCRIPTION OF APPLICATION**

The application has been made to determine whether the land to the south of the recently completed dwelling benefits from approval for residential development on the basis that it is included within permission A/2/57, which was the subject of planning permission A/2/57 so can lawfully be included without any further in principle (outline) permission being granted.

The application site is situated to the north of Ham Manor Way and forms part of the grassed area of the golf course.

RELEVANT SITE HISTORY

A/2/57	Outline Application Development Of Bungalows And Houses	ApproveConditionally 05-02-57
A/212/17/CLP	Lawful development certificate for the proposed erection of 2 No. dwelling in accordance with planning permission A/2/57	PP Not Required 29-03-18
A/31/19/PL	1 No. two storey house (resubmission following A/87/18/PL). This application is a Departure from the Development Plan & affects a Public Right of Way.	Refused 29-04-19
A/87/18/PL	Erection of 1 No. detached 2-storey, 5-bed dwelling with attached double garage (resubmission following A/176/17/PL). This application is a Departure from the Development Plan & affects a Public Right of Way.	Refused 22-08-18

A/76/60	Dwelling And Garage	Approve 11-10-60
A/55/19/PL	Construction of 1 No. new two storey house (resubmission following A/31/19/PL). This application is a Departure from the Development Plan & affects a Public Right of Way.	ApproveConditionally 08-08-19
A/71/59	House And Integral Garage	Approve 13-10-59
A/62/49	Layout (Part)	Approve 05-12-49

REPRESENTATIONS

Representations Received:

CONSULTATIONS

Consultations Responses Received:

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.

In this instance the applicant seeks to prove under the terms of S192 of the Town and Country Planning Act 1990 that it is lawful to include land to the south of the plot within the residential curtilage.

The Certificate of Lawful Use seeks to demonstrate that on the balance of probability outline planning permission A/2/57 remains in respect of the development on part of the golf course fronting Ham Manor Way.

The plots were originally indicated on outline permissions A/62/49 and A/2/57 but the Council's records for these applications are incomplete and the plans and approvals are missing. The agent has provided a

copy of the plan relating to A/71/59 as part of this submission which indicates the site area within residential curtilage.

The agent alleges that part of a residential plot is included within the submitted plan.

Granting of a certificate should occur provided no contradictory evidence is found and on the balance of probability.

CONCLUSION

The application seeks to demonstrate that on the balance of probability outline planning permission A/2/57 remains in respect of this part of the golf course fronting Ham Manor Way. The site was indicated within the approval for plots which were originally indicated on outline permissions A/62/49 and A/2/57 but the Council's records for these applications are incomplete and the plans and approvals are missing.

On the previous Lawful Development Certificate the agent provided several supporting documents to help address the lack of detail which have been analysed as part of consideration of this application. These included a letter from the Director of Hesketh Estates which refers to 2 outline consents to develop the estate in 1949 - A/62/49 and 1957 A/2/57. It goes on to state that when plots have been sold on the Estate detailed planning applications were made quoting either the 1949 or 1957 consents. There are numerous detailed approvals on Arun's data base referencing the A/62/49 and A/2/57 consents. Further it states that without doubt plots 8 and 9 continue to enjoy the outline consent of both the 1949 and 1957 permissions.

Reference is made to document ref 5 which indicates a gap in the area of the application site which is not part of a plot. This is an extract of the 1949 permission. However even though the 1949 permission excludes the site, it is included within the later implemented 1957 permission which would be sufficient evidence. Whilst there is no plan available on the Council's records for A/2/57, the previous CLP application, A/212/17/CLP, provided the plan as part of a 1959 application Ref 3. This includes the site area the subject of this application within the area identified as residential curtilage within Plot 7.

To summarise A/212/17/CLP Application, Statement, Supporting Information

Ref. 5, 1949 outline permission, the plan is quite blurred, however it is possible to assess where Ashurst, Rond Point and the Badgers would lie. There appears a gap around what is later known as plot 7 on the 1957 outline plan.

Ref. 3, is the 1959 application; (9) on the application form refers to the 1957 outline permission, with the outline plan. On the balance of probability the plan attached to that application would appear to be the outline plan. That application plan shows plots (blurred numbering) but with sufficient features to identify on the balance of probability, plots 5-9. This application itself related to plot 52. The plan provided with A/187/20/CLP is clearer and plot numbers can be identified, comparing this plan with Ref. 3, they appear the same.

Following consideration of that application, the decision notice for A/212/17/CLP states that A/2/57 permission is extant (so plots 8 & 9 lawful proposed use of dwellings was granted). Considering plots 5-9 make up a lawful use of residential pursuant to extant permission A/2/57, the gap in between Ashurst and Rond Point (that appears to form a part of what was known as plot 7) has a lawful use of residential and therefore the proposed use of curtilage to the Rond Point dwelling is lawful.

2 Objections to the application have been received.

- If this strip of land had been included in A/55/19/PL it would have been refused as was in A/31/19/PL. So it should be refused now for A/187/20/CLP.

- Described as grassed area but it is Protected Local Green Space and as such cannot be developed.

- It is not designated as countryside, it is designated as Protected Green Space.

- A/76/60 and A/71/59 are not part of the planning history of the land between Ashurst and Badgers.

- The plot that in its entirety no longer exists.

- Ashurst has a recorded frontage of 115' and is registered as plot 6. The original plot 6 in the outline consent was 70' and Ashurst acquired an additional 45'. The acquisition of 45' to built Ashurst superseded the outline consent of plot 7 as it could not be developed in the form anticipated.

We understand there was a plot 7 and the strip remaining is 5.39m wide. This was recorded by the Goring Survey Company and its findings were recorded on the A/55/19/PL application. We know that the outline consent for plot 7 was for the development of a house or a bungalow which is now impossible on a strip of land 5.39m wide, which is why it was never developed.

- A/55/19/PL was approved for one single large dwelling and side garden and it granted a separate form of development to that of the original outline consent. This permission now overrides the outline consent as it cannot be built in the form anticipated

The decision on the application will made on the basis of the evidence submitted and legal judgement, not the merits of the case. Determination of the application will be based on fact not merit. Whether the proposed development remains in breach of Policy is not therefore relevant to determination of this application. The Green Space policy cannot be considered as part of this proposal. A Certificate application based on implementation of an earlier permission would not be overridden by a later planning permission.

Rond Point appears to fall on plots 8 and 9. There is then a gap, the 1959 plan then shows land hatched black, and that land we know is now a residential plot called the Badgers. The gap between Rond Point and Ashurst (the site) would therefore correlate with plot 7, with Ashurst seeming to fall on plots 5, 6 and part of plot 7 of the 1959 plan.

On the balance of probability, the plan submitted with the 1959 application was for the 1957 outline permission, this shows plots 5-9, that correlate to Ashurst- Rond Point, and therefore, as the 1957 permission is extant, the proposed use of residential curtilage is lawful.

Officers have consulted the Council's legal section who agree with their view to approve.

RECOMMENDATION

APPROVE

The Arun District Council hereby certify that on 07-11-2020 the development 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 192 of the Town & Country Planning Act 1990 for the following reasons:

Ham Manor Estate is built under planning permissions A/62/49 and A/2/57.

A/62/49 Granted consent for layout (part) of Ham Manor Estate on 22/12/49 and excludes the site.

A/2/57 Granted outline permission for development of houses and bungalows on 05/02/57 and included the site and is the later approval.

The site is included as residential curtilage within the permission **A/2/57** and it is satisfactorily demonstrated that the proposal can be authorised by **A/2/57** only.

FIRST SCHEDULE

Use of the site as residential curtilage.

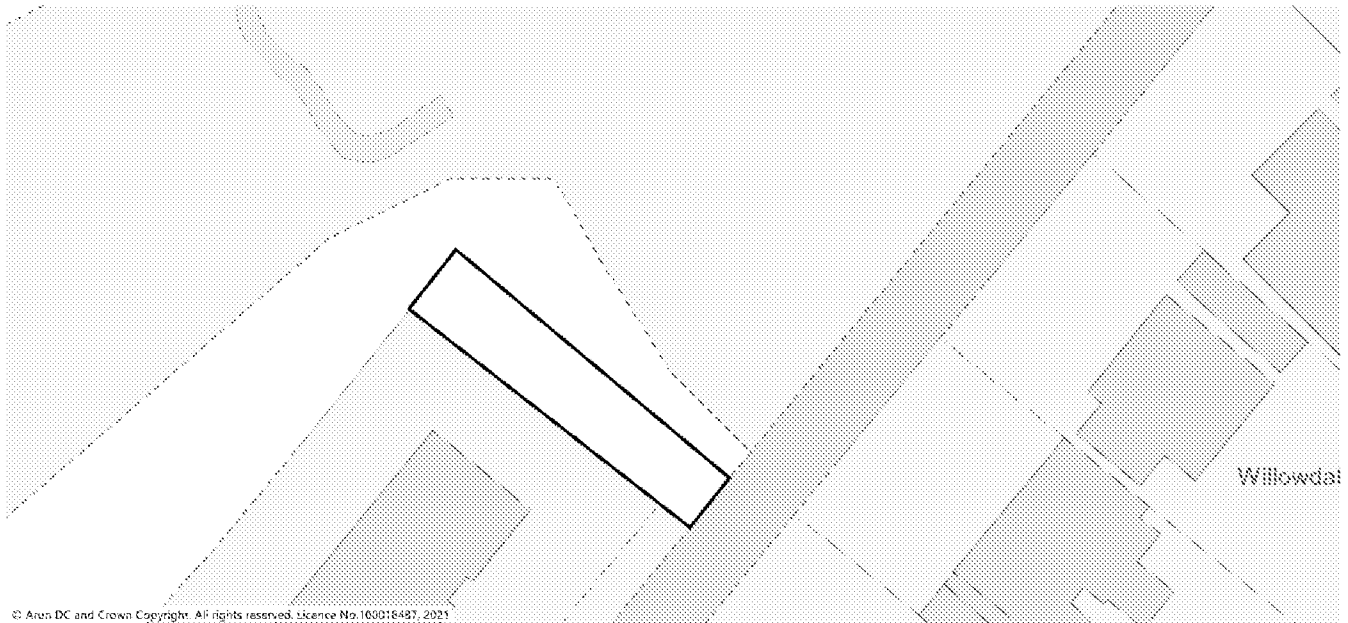
SECOND SCHEDULE

Part of Ham Manor golf course on the North side of Ham Manor Way, adjacent to Rond Point, Ham Manor Way, Angmering.

EXTENT OF USE

The development concerned relates to the provision of a grassed area within part of the golf course on the North side of Ham Manor Way, Angmering adjacent to Rond Point on the basis that it does benefit from outline planning permission **A/2/57 which is extant.**

A/187/20/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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