CERTIFICATE OF LAWFUL PROPOSED DEVELOPMENT REPORT

REF NO: **A/65/11/CLP**

LOCATION: Land at Fallowdale
North Drive
Angmering

PROPOSAL: Application for certificate of lawfulness an proposed use - Erection of 3 No. dwellings in accordance with the conditions imposed under planning permission A/2/57

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The application has been made to determine whether 3no. dwellings which were the subject of planning permission A/2/57 can lawfully be built without any further permission being granted.
SITE AREA	N/A
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Fencing/hedges.
SITE CHARACTERISTICS	Site comprises a detached 2 storey dwelling with extensive gardens to front, rear and sides including terrace units . The rear of the site abuts the golf course.
CHARACTER OF LOCALITY	The site is located behind a residential street comprising a mixed character of 1 and 2 storey properties set in medium/large plots set back from the highway with gardens to front, side and rear within a semi rural environment. The proposed site lies behind these properties. The area beyond the rear boundaries of properties fronting North Drive is rural in character with no neighbouring properties immediately adjoining the side or rear garden boundaries. The curtilage of Fallowdale extends up to a public footpath to the north.

RELEVANT SITE HISTORY

A/87/88	Details in pursuance of A/62/49 for erection of 38 no. dwellings together with garages and associated works (6 no. bungalows, 11 no. chalet style houses & 21 no. houses).	Approve Cond 10-08-1988

A/62/49	Layout (part)	Approve 05-12-1949

A/2/57 - Outline application development of bungalows and houses Approved Conditionally 05-02-1957

REPRESENTATIONS

Representations received:

None

Comments on Representations received:

None

CONSULTATIONS

Planning Solicitor

Consultations responses received:

Planning Solicitor: The application seeks to prove under the terms of S191 of the Town and Country Planning Act 1990 that it is still lawful to build 3 dwellings on plots 40-44 and 45 under (a) an outline planning permission issued on 22 December 1949 for 1 layout (part) Ham Manor Estate Angmering ref A/2/57 dated 5 February 1957. The applicant refers on rules which say that provided that planning permissions approved pre 1 April 1969 are part implemented within 5 years of approval or 2 years of approval of reserved matters for outline application then they are preserved.

In this case the Ham Manor Estate is built under these planning permissions except for plots 40, 44 and 45. The Ham Manor Estate as a whole is built so lawfully, so can other parts of the Estate as approved by the planning permission.

Recommend granting certificate subject to no contradictory evidence on the balance of probability the case is made.

Comments on Consultation responses:

Solicitor requests that a copy of planning permission A/2/57 is sought, but there are no records at these offices and the agent does not have a copy.

DEVELOPMENT PLAN AND/OR 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.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The application seeks to demonstrate that on the balance of probability outline planning permission A/2/57 remains in respect of 3 dwellings in the garden area of Fallowdale. The plots were originally numbered 40, 44 and 45 on permission A/62/49 and A/2/57 but the records for

these applications are incomplete and the plans and approvals are missing.

It is evident from visiting the site that plot 41 has been developed and the dwelling has existed for a number of years. The gardens are established. Ham Manor Estate as a whole has been substantially built. There is nothing in the evidence submitted to suggest generability of the 1949 or 1957 permissions and the development was commenced within 5 years. The evidence meet the time limits under Section 171 and Section 191 of the Town and Country Planning Act 1990.

The evidence submitted which comprises a red edged site which relates to items 5 and 6 in the application with houses on the eastern edge and Fallowdale on part hatched black. A copy of planning permission A/62/49 is copied in the application. A copy of A/2/57 cannot be provided. Items 8 and 9 list planning permission and reserved matters approvals under these planning permissions which conform with the rules on time limits.

Judged on the balance of probability the evidence is sufficient, precise and unambiguous and as such planning permission A/2/57 relating to 3no. dwellings is extent.

RECOMMENDATION

PLANNING PERMISION NOT REQUIRED

1 The Arun District Council hereby certify that on the 20-04-2011 the use hereby described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged boldly on the plan attached to this certificate was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:
Ham Manor Estate is built under planning permissions A/62/49 and A/2/57 except for plots 40,44 and 45 which were clearly identified and included within the approved plans and permissions.
A/62/49 Granted consent for layout (part) of Ham Manor Estate on 22/12/49
A/2/57 Granted outline permission for development of houses and bungalows on 05/02/57.
A/87/88 Granted consent for details in pursuance of A/62/49 for erection of 38 no. dwellings together with garages and associated works (6 no. bungalows, 11 no. chalet style houses and 21 no. houses).
There is no evidence to suggest severability of these permissions which based on the information submitted and a visit to the site were substantially built or commenced within the necessary time period in accordance with the time limits within Schedule 24 of Town and Country Planning Act 1971 and Sec191 of Town and Country Planning Act 1990. Case law suggests part implementation preserves the rest of the development.

2 The development concerned relates to the provision of 3 dwellings within the garden area of the existing property Fallowdale,North Drive, Angmering in the

3 Garden area at Fallowdale to north and south of existing dwelling as shown on the plan to this certificate within the area edged boldly in black.

4 The principle of erection of one unit of accommodation on each of the 3 identified plots.