

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

REF NO: **A/70/22/CLE**

LOCATION: Arundel Acre
Arundel Road
Angmering
BN16 4EU

PROPOSAL: Lawful development certificate for the existing use of the application site as a single dwelling house.

DESCRIPTION OF APPLICATION

This Certificate of Lawfulness application seeks to regularise the use of the land as a single dwellinghouse on the basis that it has been continuous for a period of more than 4 years, since at least 15th March 2016 to the date of this application, and no enforcement action has been taken against this breach.

SITE AND SURROUNDINGS

The application site forms part of a larger plot of land owned by the Applicant which is known as 'Arundel Acre'.

Arundel Acre is located to the south of the junction between the A27 and Arundel Road, with access taken from Arundel Road.

Mature trees are located to the east whilst to the south is Acorns camp site. Angmering village lies to the south. To the west is Arundel Road with two detached residential dwellings on the opposite side of the road, and further beyond is a two-storey detached building (Hammerpot Garage) used as a car sales business.

To the north is the A27, with South Downs National Park boundary beyond. The western portion of the site has a lawful use for the storage of fairground rides and the south and eastern section of the site, is agricultural in nature.

RELEVANT SITE HISTORY

A/56/21/PL	Change of Use of land from agricultural to storage site for ApproveConditionally up to 4 fairground rides, associated infrastructure (including MOT base) and erection of a storage shed	16-07-21
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A/100/19/PL	Change of use of land from agriculture for 3 No. travelling showpeople plots (Sui Generis) with associated storage barn, maintenance area, landscaping & infrastructure and creations of new access with associated visibility splays.	Refused 23-12-19
A/49/92	Erection of animal shelter and feed store	ApproveConditionally 15-07-92

REPRESENTATIONS

Representations Received:

Angmering Parish Council
Angmering Parish Council - No Objection

Comments on Representations Received:

None

CONSULTATIONS

Consultations Responses Received:

None

Comments on Consultation Responses:

None

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.

PRINCIPLE

Section 191 to 195 Town & Country Planning Act 1990 and NPPG guidance on LDC's 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.

The relevant time limit for this operation would be 4 years.

BACKGROUND

On 7th April 2022 the Council received an application for a CLEUD in respect of change of use of a building to a dwelling. The application refers to the use of the land as a single dwellinghouse as a sole or main place of residence beginning since at least 15th March 2016 and being continuous for a period of more than 4 years.

A supporting statement by RPS group ref PPS1372, dated April 2022 has been submitted which includes the following:

- Application Form.
- Site location Plan (Drawing No. 1).
- Statutory Declarations from:
 - . Mr Nicholas Burrell.
 - Mr Benjamin Burrell.
 - Mr Andrew Burrows.
 - Mr Michel Lumley.
- Exhibits in the form of dated photos and receipts which accompany the abovementioned Statutory Declarations and form part of the evidence pack.
- Google Streetview photos dated 2016 - 2020 and
- Dated letters from energy suppliers - Appendix A.

The first statement from Mr Nicholas Burrell at Paragraph 1 states that he started using the site as his sole or main residence on 15th March 2016 with Exhibit B containing dated photos supporting this assertion which show the dwelling fitted with kitchen, sink, fridge, microwave, sofa/bed, electric heaters, washing machine, TV and other furniture. It aligns with Mr Benjamin Burrell's statement regarding the dates on which the site began to be used as a single dwellinghouse. These indicate the use of water, gas and electricity supplies at the premises and show the toilet located within a separate shed.

Paragraph 3 of Mr Nicholas Burrell's declaration also indicates that, between January 2016 and March 2016, he carried out maintenance to the roof of the building to make it watertight and habitable. He also carried DIY activities to paint the inside and outside of the building. Copies of dated receipts and invoices showing the items bought to carry out the roof repairs, paints, stains and maintenance items are included as Exhibit C.

Point 2 of the declaration states that Mr Nicholas Burrell started living on the site to act as security for the equipment and rides stored to the west and north/west of the site and on Point 6 it is stated that a lot of elements of his business are carried out from the site, with annual points safety inspectors for the rides and equipment coming into the site and into his home to complete paperwork relating to their inspection.

Points 4 & 5 of the declaration state the way in which the site has been used as his sole and main residence, with the presence of a pet pig named Spider (Exhibit F) and with a number of celebrations being held on site, for which dated photos of 12 November 2017; 25 December 2019; 25 May 2020; 13 June 2020 and 13/01/2021 are provided within Exhibits D - G.

The second sworn statement prepared by Mr Benjamin Burrell indicates in Paragraph 1 that he and Mr Nicholas Burrell acquired the site at the end of 2015. Paragraph 2 states that works were carried out by themselves to make the site habitable between January 2016 and March 2016. Dated receipts dated between 31st December 2015 to 19th November 2016 are provided within Exhibit B of Mr Benjamin Burrell's statutory declaration related to various purchases of building materials which support this assertion.

At points 3 - 5 Mr Benjamin Burrell declares that his brother installed a number of residential equipment and furniture (kettle, heaters, etc) to create a "bedsit type of environment" and that his brother started living on site as his main or sole place of residence for security purposes. He then refers to dated photos of celebrations and residential activities on site dated 2017, 2019, 2020 and 2021 included as Exhibits D - G.

At Points 6 & 7, Mr Benjamin Burrell states that planning applications for the site have been put forward to the Council regarding the site since 2017, with a number of site visits from the Council taking place and that at no time the fact the building has been in use on a residential basis has been hidden and that such use has been continuous since March 2016.

Mr Andrew Burrows declares that he is a friend of Mr Nicholas Burrell and that he has visited the site on several occasions for celebrations and events, with dated photos of activities included in Exhibits C - F. He confirms that Mr Burrell has been living on site since March 2016 on a continuous basis.

Mr Michael Lumley declares that he is a friend of Mr Nicholas Burrell and that he has visited the site on several occasions for celebrations and events, with dated photos of activities included in Exhibits C - F. He confirms that Mr Burrell has been living on site since March 2016 on a continuous basis.

The submission is supported by Google Streetview photos dated October 2015, May 2016, May 2017, June 2018, April 2019, September 2020 and September 2021 indicate the building on site. The September 2021 shows residential paraphernalia including a children's trampoline, climbing frame with slide and other outdoor toys within the garden.

The letters from EDF energy suppliers are further evidence from an independent source which corroborates the statements made within the statutory declarations. They are dated December 2015, December 2018 and March 2019 sent to the attention of Mr Nick Burrell at Mouse Mansion, Pond Lane, Worthing, BN13 2RH for energy supply services at Arundel Acre, Church Hill, BN16 4EG and one letter from British Gas dated October 2020 indicating to Mr Burrell they took over the energy supply services at Arundel Acre, Church Hill, BN16 4EG.

These relate to the site subject to this application as shown on their 'supply address' section, with the letter from EDF dated March 2019 referring to the changes to the energy price cap which directly relates to household supply, confirming the energy supply indeed relates to domestic/residential premises.

For the reasons set out above it is considered that the sworn statements, together with the associated letters, photographs, receipts and streetviews demonstrate use of the land as a single dwellinghouse as a sole or main place of residence beginning since at least 15th March 2016 and being continuous for in excess of 4 years.

CONCLUSION

Aerial imagery which the council has access to, does not substantiate that there has been a building on the site since 2015 as tree cover across the site in the area of the building is too dense.

The application is judged on the evidence submitted which contains photographs and sworn statements which are precise and unambiguous and clearly demonstrate that the use of the site has been private amenity land on a continuous basis for at least 4 years.

It is considered that on the balance of probability, it has been proved that the site has been used as a single dwellinghouse for a continuous period of more than 4 years, since at least 15th March 2016.

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 property had been in use as a private dwelling and garden for a continuous period of 4 years since at least 15th March 2016.

FIRST SCHEDULE

Use as a single main dwellinghouse and garden as indicated on the block plan drawing received on 07-04-2022 and Site Location Plan 1372-0001-01 received on 16-08-2022.

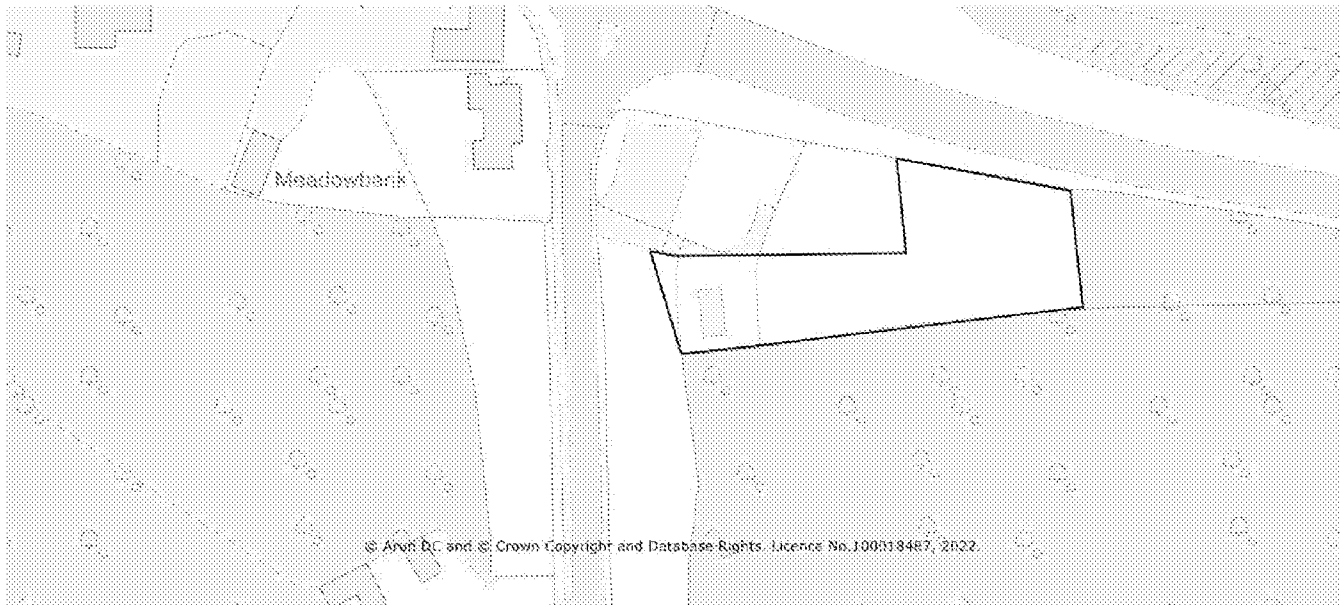
SECOND SCHEDULE

Land at Arundel Acre, Arundel Road, Angmering, BN16 4EU.

EXTENT OF USE

Use as a single main dwellinghouse, garden, pet pig enclosure, roaming area for pet pig, and fruit trees.

A/70/22/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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