

Objection to Certificate of Lawful Existing Use or Development

Application A/84/26/CLE

Location: St Denys Nursery North, Units 4–8, Dappers Lane, Angmering, BN16 4EN

1. Context to Objection: Certificate of Lawful Existing Use or Development (CLEUD): The applicant states that the application for a CLEUD has been submitted following enforcement notice ENF/47/26. I have assumed from the planning statement that the applicant is asking for a CLEUD for Class B2 use across Units 4–8, inclusive. However, the uploaded application only appears to identify Unit 7, so from the outset the scope of the application is not clear.

2. Summary of objection

I object to a Certificate of Lawful Existing Use or Development being granted because:

- The applicant does not establish, on the balance of probability, a continuous and clearly identifiable lawful use of the relevant units for the required period.
- The application appears to rely on incomplete lease evidence, unclear unit numbering, and assertions of historic use that are not supported by a continuous and robust audit trail.
- Unit 7 had a material change of use from 1 November 2025, contrary to the planning statement and application.
- The current use is having a considerable and detrimental impact upon the residents of adjoining properties, and this unfettered activity should not be undertaken in such close proximity to a residential area due to significant noise and air pollution.

My understanding is that a CLEUD is a determination of lawfulness based on evidence, fact and law. The applicant should therefore provide sufficiently precise and robust evidence to demonstrate exactly the use as claimed, the units in which that use took place, and that the claimed use has continued without material change or interruption for the relevant period, namely more than 10 years. I do not consider that this has been demonstrated in this instance.

3. Current Use and Impact on Residents

Units 4–7 are located directly behind residential properties, including my own, and the children's play area, Gravely Dell, on Smallfield Close. Unit 8 is approximately 20-30 metres further northeast. Between units 7 and 8, an area has developed into a compound, where HIAB trucks, end of life vehicles, banger racing cars, tyres and scrapped vehicle parts are stored on unmade ground.

With a particular emphasis on unit 7, there should be no misconception that the activities currently taking place are ordinary car repair workshop activities which would sit within Class B2. Units, together with the associated compound of approximately 600 m² and periphery, are currently being used for the conversion of end-of-life vehicles into banger racing cars. These activities involve irregular industrial processes including dismantling vehicles with angle grinders and sledgehammers, engine extraction, sanding and paint spraying, inside and outside of the unit without any regulation. I therefore ask planning officers to satisfy themselves as to whether the activities being carried out on this site properly fall within Class B2, or whether this site should be considered as a breakers yard.

Vehicles, including wrecked cars, are also lifted behind, and sometimes over, garden fences using a HIAB crane mounted on a truck. The HIAB can idle for long periods (up to 3 hours) during this process, creating fumes and noise. Banger racing cars are revved incessantly. These cars are more polluting than ordinary cars because they lack modern emissions controls, such as catalytic converters, and have mufflers removed. This results in extremely loud, vibrating engines, with noise, vibration and fumes travelling some distance. Cars are also sprayed directly behind garden fences with significant overspray. The effects on air quality and noise disturbance from this site are therefore significant.

4. Comments on the planning statement and planning application

I would like to highlight several points in the planning statement and application that appear unclear, inaccurate or unsupported by the evidence.

4.1. Planning Statement

The Planning Statement claims, 'After some period of time, the use of the whole site as a nursery reduced and the need for a building as permitted was no longer required. The building was the split into fur (sic) units, being units 4, 5, 6 and 7.' If that subdivision and change in use happened in 2015, the applicant has not explained why a planning application was not made at the time for a change of use or a variation of the relevant conditions, especially as other applications on this site were made in the same year. This matters because previous proposals for vehicle repairs and maintenance appear to have been refused because of the impact on amenity.

4.2. Planning history, scope of earlier permissions and unit identification

There are at least two planning applications relevant to the units now identified as 4–8 St Denys North rather than the one as stated in the application and statement, and the numbering of the units appears to have changed over time. Application A/87/97 relates solely to the unit now described as Unit 7, previously Unit A and later Unit 1. Units 4, 5, 6 and 8 appear to be dealt with separately, including through application A/135/95, although this should be checked carefully against the original plans.

4.3. Leases

The leases provided are incomplete, and important information appears to be missing:

- Clause 3, which deals with the premises, is not supported by a plan. As the unit numbers have changed over time, a plan is essential to confirm that the lease and unit numbers match.
- Clause 8 does not state the permitted use.
- Clause 9 sets out operating hours that do not appear to align with the permitted conditions of use for any of the units.
- Clause 11.1 does not appear to include the outside of the building, yet external compounds have developed and are now being used.

4.4. Units 4 - 8: leases submitted as evidence of continuous use

The application includes short-term commercial leases for Units 5 and 6 dated 1 January 2016 and 1 June 2024. However, evidence of the end date of the earlier lease has not been provided, and the class or nature of the permitted use is not clearly stated. This suggests a possible material change of use within the last few years, rather than a continuous use in excess of 10 years.

For Unit 8, the application includes a similar lease dated 1 October 2015. There is no indication as to whether this lease is current. The site plan displayed at the entrance to the site appears to show the unit identified as Unit 8 in the application plan as Units 9 and 10. A sign outside the entrance also appears to identify Unit 8 as Coastal Fire Systems. These inconsistencies reinforce the need for the applicant to prove the identity, extent and historic use of each unit by reliable, dated evidence.

The applicant states that the original lease for Units 4 and 7 cannot be found, but that a later lease for Unit 7 and a business rates demand notice for Unit 4 have been provided (although not included in the submissions). This does not establish continuous lawful use. A later lease may only show when a new or materially different use began, and a business rates demand does not itself prove the planning use of the land or continuity of occupation. The evidence currently described does not remove doubt about continuity or use.

4.5. Unit 7: material change of use

In response to the question, "In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought?", the applicant has answered

“No”. In the case of Unit 7, however, there has been a clear material change of use from 1 November 2025, based on the lease evidence referred to in the planning statement and confirmed by the experience of residents in surrounding properties.

Unit 7, previously Unit A and later Unit 1, was occupied by South Coast Workwear until approximately September or October 2025. That class of use, for the storage and sale of workwear, is materially different from Class B2. In October 2025 the unit was cleared and waste was burned. From January 2026, the industrialisation of this unit and the surrounding area became significant.

On that basis, the claim that Unit 7 has been used continuously for the claimed purpose is factually incorrect. The evidence instead confirms a change from storage/sales use to more intensive industrial activity, with the relevant date for any lawful use claim being much later than suggested by the applicant i.e. 1 November 2025.

5. Use of external land and containers

The application does not address the use of land outside the units for the siting of containers, and the breaking and storing of cars. This land is allocated as housing in the Arun Local Plan (SD9), which also encompasses the whole of unit 8 and the boundary cuts through unit 7. These matters should be considered as part of the planning officer’s assessment, particularly where such external uses may amount to separate or materially different operational development or permitted use of land. The land is also unmade which creates a vast distribution of potentially contaminated dust when vehicles (in particular the heavy HIAB trucks) move over the surface.

6. Conditions

Previous conditions specified for compliance with planning permissions are:

- A/134/95 – Units 4,5,6 and 8 (subject to confirmation see 4.1): Condition 1: The premises the subject of this permission shall only be used for carpentry, joinery, the recycling of fabrics, upholstery and printing and for no other purpose including any other purpose in classes B1, B2 or B8 of the TCP (use Classes) Order 1987.
- A/87/97: Condition 2: The proposed building shall be used for the storage, repair and maintenance of vehicles and machinery employed at St Denys Nursery and for no other purpose including any other purpose in class B2 of the Schedule to the TCP (Use Classes) Order 1987.

These conditions are very specific to the units and requirements at the time and give consideration to the local amenity, with no other uses being permitted. All other applications for vehicle repairs in Class B2 use had been refused.

6.1. Environmental Health Recommendations

Since January 2026 the change of use of unit 7 has had a serious and detrimental impact on local amenity, and the ability for residents to enjoy our homes peacefully. The impact has been heightened during the summer months, when windows have remained closed to reduce noise and pollution. We are unable to use our gardens without disturbance from significant engine noise and vibration, pollution from engines and spray painting, overlooking and the general stress caused by the activities taking place. The activities currently being carried out are having a detrimental impact and should not take place so close to residential properties at any time of day, with or without mitigation.

6.1.1. Hours of operation

While welcoming the majority of the recommendations made in the environmental health officer’s report, the proposed operating hours would not address the fundamental issues as stated above. I understand that the other recommended conditions are designed to reduce the impact of B2 activities, however, the conditional hours of operation proposed would mean that the only respite would be on a Sunday or Bank

Holiday. These are in fact an extension of the hours imposed in application A/134/95, particularly regarding Saturday hours of operation. I consider this a regressive recommendation.

6.1.2. Air Quality Emissions/Industrial Noise

The report states ‘Prior to the first use of the premises...’ and ‘... the change of use hereby permitted shall not commence until...’, however, the change of use has already commenced. How will the local authority manage these recommendations given that the current use is not compliant?

I think it is also important to highlight previous breaches of conditions and retrospective planning applications (including this application) that have been registered at this site. Therefore, consideration should be given as to how the conditions will be monitored and enforced by officers.

6.2. Mitigation

If an existing Class B2 industrial use had been identified in such close proximity to a proposed residential development, the developer of the new-build properties would have been expected to mitigate its impact through the design and construction of those homes. However, as the units were not identified as being used for general industrial purposes when our homes were built, the authority should consider whether responsibility for proper mitigation against noise, pollution and the need for buffers would now lie with the applicant if Class B2 use were permitted.

6.3. 2015 application and residential amenity concerns

In 2015, an application was made for light industrial units on the St Denys site, A/31/15/PL. Neighbour representations raised concerns about uses exceeding B1 permissions and the resulting disturbance to residents. The application was approved in January 2016, after the date on which the applicant now appears to say the change of use occurred and the relevant conditions were breached. Those concerns appear to have been dismissed at the time and the planning officer stated: “A B2 General Industrial use would have a greater impact on adjoining residential properties than the B1 use proposed and **a condition is recommended to prevent B2 uses on the site.**” That assessment was correct then and remains correct now, particularly given the increase in nearby residential properties and their closer proximity to the units.

7. Officer visits, enforcement history and site observations

Since 2016 there have been multiple planning applications and CLEUD applications relating to this site and adjoining land for new residential developments. During that period, planning officers, environmental health officers and other officials are likely to have visited the site, prepared reports and undertaken investigations.

If general industrial use had been taking place openly and continuously across Units 4–8 for the claimed period, it is reasonable to expect this to have been identified in officer reports, enforcement records or environmental health records. The authority should review its own records before determining the application.

8. Evidence requested before determination

Before the issuing of any certificate is considered, the applicant should be required to provide clear and dated evidence for each unit, including:

- certified plans showing the precise unit boundaries and numbering at each relevant date;
- complete leases and tenancy agreements, including start and end dates, permitted use clauses and any renewals;
- Valuation Office and NNDR records for each unit and each tenant;
- evidence of continuous occupation and use, with no material breaks or changes;
- evidence distinguishing historic storage, retail, light industrial and general industrial activity;

- copies of relevant historic planning permissions, conditions, officer reports and enforcement or environmental health records.

9. Conclusion

For the reasons set out above, I do not consider that the applicant has demonstrated a continuous, clearly identifiable and lawful existing use of Units 4–8 for the relevant period. The evidence appears incomplete, internally inconsistent and insufficient to support the granting of a CLEUD. This attempt to regularise an irregular industrial use is particularly concerning given the significant adverse impact that the change of use has had on local residents and our ability to use and enjoy our homes without unacceptable harm.

The units themselves do not appear suitable for this type of industrial activity, given their age and apparent lack of modern noise, air-quality and pollution-control measures. In addition, the site is unsuitable for Class B2 use because of its direct abuttal to residential properties and a play area. The current activities are causing harm through noise, air pollution and potential environmental contamination, particularly given the permeable surface.

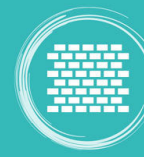
I therefore respectfully request that Arun District Council refuse the application for a Certificate of Lawful Existing Use or Development.

From: Elaine Walby on behalf of Planning.Responses
Sent: 31 July 2026 16:50
To: Planning Scanning
Subject: FW: Objection to CLEUD application A/84/26/CLE
Attachments: Objection - Submitted 30072026.pdf

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From: Kathryn Welch <Kathryn.Welch@arun.gov.uk>
Sent: 30 July 2026 16:36
To: Planning.Responses <Planning.Responses@arun.gov.uk>
Subject: FW: Objection to CLEUD application A/84/26/CLE

Letter of objection to upload please.

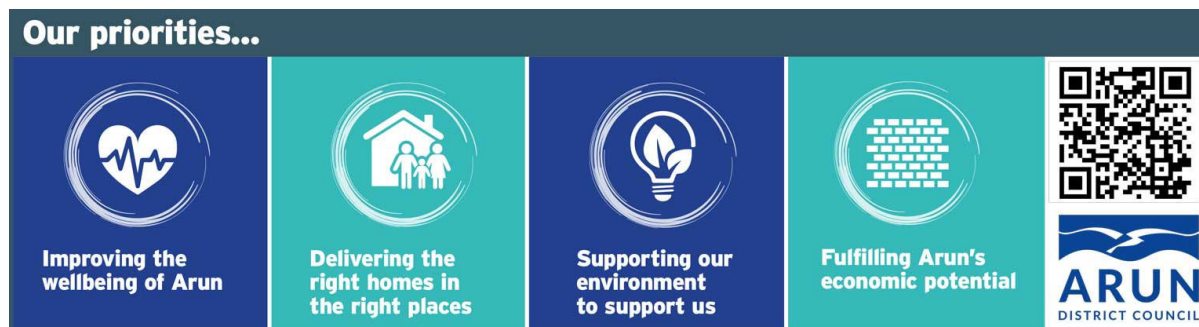
Many thanks,

Kathryn Welch
Senior Planning Officer, Planning Department

Please note: My working hours are currently split between Development Management and ADC Engineers, which may result in extended response times. **Development Management:** Tuesdays and Thursdays **ADC Engineers:** Mondays, Wednesdays, and Fridays

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From: Alison Spencer [REDACTED]
Sent: 30 July 2026 16:19
To: Kathryn Welch <Kathryn.Welch@arun.gov.uk>
Cc: Cllr. Andy Cooper <cllr.Andy.Cooper@arun.gov.uk>
Subject: Objection to CLEUD application A/84/26/CLE

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Dear Miss Welch

Re: St Denys Nursery North, Units 4-8, Dappers Lane, Angmering, BN16 4EN

Please find attached my objection to the application for a Certificate of Lawful Existing Use or Development relating to St Denys Nursery North, Units 4-8, Dappers Lane, Angmering, BN16 4EN.

I would be grateful if this objection could be placed on the planning file and taken into account before the application is determined.

Please could you confirm receipt of this objection and advise that it has been uploaded to the application record.

Kind regards

Alison Spencer
9 Smallfield Close
Angmering
West Sussex
BN16 4RH

Sent from my iPad