

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/84/26/CLE

LOCATION: St Denys Nursery
Units 4-8
Dappers Lane
Angmering
BN16 4EN

PROPOSAL: Lawful development certificate for existing office, storage and repairs.

DESCRIPTION OF APPLICATION

This application seeks a certificate of lawful use in respect of Units 4, 5, 6, 7 and 8 for office, storage and repair uses.

Whilst the application does not specify the nature of the repair use, it is presumed to relate to the repair and maintenance of cars and other motor vehicles, as a number of vehicles were observed parked within and around the application buildings during the recent site visit.

At present, I am unaware of the specific activities associated with the proposed office and storage uses, as this information has not been provided within the application submission.

SITE AND SURROUNDINGS

Former nursery site comprising a number of converted units, no longer used for activities associated with its previous horticultural use.

RELEVANT SITE HISTORY

A/109/14/PL	Rebuild commercial building destroyed by fire.	ApproveConditionally 02-10-14
A/87/97	Rebuilding of work store/shed on site of original structure	ApproveConditionally 19-12-97
A/84/96/CLE	Application for Certificate of Lawfulness of existing building (Building B)	Approve 15-11-96

A/74/96/CLE	Application for Certificate of Lawfulness of Existing Use for use of premises for the retail /wholesale supply of compost	Approve 24-07-97
A/137/95	Rebuilding of work store/shed on site of original structure	Refused 15-10-96
A/134/95	Renewal of temporary planning permission A/69/92 for change of use of 6 agricultural units to light industrial	ApproveConditionally 22-02-96
A/69/92	Renewal of Temporary Planning Permission A/74/89 for change of use of 6 agricultural units to light industrial use	ApproveConditionally 02-12-92
A/74/89	Change of use of 6 agricultural units to light industrial use	ApproveConditionally 02-08-89

Various planning applications relate to the wider site. The numbering of units is not consistent across the planning history, with different references used interchangeably. Most applications relate to Units A and B. It can be established that Unit A corresponds to Unit 7 within the current application documents, whilst the site entrance signage identifies the same unit as Unit 1.

Although not directly relevant to the current application, it is considered that Unit B corresponds to Unit 2, which is consistent with the on-site signage.

No planning history has been identified specifically relating to Application Unit 8. The area shown as Unit 8 in the current submission was previously identified as Area C (for the storage of materials) under application A/74/95/CLE. However, the site's signage identifies this area as Units 9 and 10.

REPRESENTATIONS

Representations Received:

Angmering Parish Council

Angmering Parish Council - Objection

- Concerns remain regarding gaps in the evidence provided, including missing lease documentation, changes in occupiers over time, and whether continuous lawful use has been adequately demonstrated.
- Questions persist regarding the nature of activities occurring on the site, including potential environmental, health and safety impacts and noise affecting nearby residents, with a request that a noise survey be undertaken to assess impacts on neighbouring properties.

5 letters of objection from neighbours.

- od produced from car spraying.
- Car breaking and scrapping already occurring.
- Noise works occurring adjacent to properties.
- In November 2025 change of use from a supplier of PPE (South Coast Workwear) to car breakers yard and banger racing car workshop.
- B2 uses should not be permitted adjacent to houses.
- Insufficient information provided, confusion over units numbering.
- On the balance of probability, a continuous and clearly identifiable lawful use of the relevant units for the required period.

Comments on Representations Received:

Noted.

CONSULTATIONS

Consultations Responses Received:

Environmental Health - No objection with conditions.

- Gaps in the supporting evidence, including missing lease records and changes in occupiers over time, raise doubts as to whether continuous lawful use has been demonstrated.
- Concerns that the activities currently taking place on the site may not fully align with the use described in the application.
- Potential environmental, health and safety impacts arising from site activities. Complaints have been raised by members of the public.
- Concerns regarding noise impacts on neighbouring residents, with a request for a noise survey to assess the level of disturbance.
- No objection subject to the implementation of 3 conditions regarding delivery hours, air quality survey, industrial commercial noise, and noise management plan.

Comments on Consultation Responses:

The conditions requested by Environmental Health cannot be applied due to the application type.

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.

Sections 191 to 195 Town & Country Planning Act 1990 and NPPG guidance on CLE's have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

Paragraph 005 (Reference ID: 17c-005-20140306) states that:

An application for lawful use need to be accompanied by sufficient factual information describing precisely what is being applied for and the land to which it relates. Should this threshold not be met the application could be liable for refusal.

Paragraph 010 (Reference ID: 17c-010-20140306) states:

Where a planning unit has a mixed or composite use, any lawful development certificate must accurately reflect that mixed use to avoid unintentionally allowing a future intensification of the certificated use. The certificate needs to therefore spell out the characteristics of the matter so as to define it unambiguously and with precision.

Paragraph 006 (Reference ID: 17c-006-20140306) of the Planning Practice Guidance (PPG) states that:

The applicant is responsible for providing sufficient information to support an application although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

S171(1)-(3) and S191 TCPA 90. The relevant time period is 10 years prior to the date of the application, i.e. 18.06.2016 - 18.06.2026

CONCLUSION

The latest planning history for Units 4,5 and 6 indicates that its last approved use would fall under the temporary permission A/74/89 and its renewals A/69/92, A/134/95. Condition 1 stated:

The premises the subject of this permission shall only be used for carpentry, joinery, the recycling of fabric, upholstery and printing and for no other purpose including any other purpose in classes B1, B2 or B8 of the Schedule of the Town and Country Planning (Use Classes) Order 1987.

Unit 7 was granted retrospective permission under A/87/97 (labelled Unit A on application documents) with the following condition (2) attached:

The proposed building shall be used or the storage, repair and maintenance of vehicles and machinery employed at St Deny's Nursery and for no other purposes including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987.

The Planning Statement incorrectly states that the building approved under permission A/87/97 was subsequently subdivided to create Units 4-7. Given the historic plans reviewed, the officer does not consider this to be the case.

No planning history for Unit 8 can be found.

The application states that the site has been in breach of Condition 2 of planning permission A/87/97 for a period of 10 years, citing office, storage and repair uses as the basis of the proposed lawful use. It is unclear, although assumed, that the vehicle repair activities no longer relate to the repair of vehicles and machinery used by St Denys Nursery and instead operate as separate commercial business activities.

Five units within the site form the application area, all of which are relatively small in scale. Based on the information submitted, it is understood that the units are not occupied by a single company but are leased to five separate individuals and/or businesses, namely:

- Mr C. Pettitt, Unit 4
- Mr T. Casaletto, Unit 5
- Mr J. Gassan, Unit 6
- Mr A. Rademayer, Unit 7
- Mr J. Brown, Unit 8

Use Class B2 relates to general industrial uses, Use Class B8 relates to storage and distribution uses, and office uses would ordinarily fall within Use Class E. If any individual unit operates solely within one of these use classes, the application fails to accurately describe the use for which a certificate is sought and is therefore incapable of proper determination. Alternatively, if each unit operates a combination of B2, B8 and Class E uses, this mixed or composite use has not been clearly, factually or precisely described within the application submission. In either case, the application lacks the precision necessary to define unambiguously the use for which a certificate is sought and therefore fails to satisfy the requirements of paragraphs 005 and 010 of the NPPG relating to Lawful Development Certificates.

Tuning to the relevant time period of 10 years. In order to grant lawful use of the site, it should be ensured that the continuous use of the units over the 10 years is factually describe and evidenced. The evidence presented as part of this application is that:

- Unit 4, occupied between 01/11/2024 until 31/03/2025 evidenced via a utility bill.
- Unit 5 and 6, occupied on the 01/01/2016 evidenced by a signed lease agreement.
- Unit 5, occupied on the 1/06/2024 evidenced by a signed lease agreement.
- Unit 6, occupied on the 1/06/2024 evidenced by a signed lease agreement.
- Unit 7, occupied on the 1/11/2025 evidenced by a signed lease agreement.
- Unit 8, occupied on the 1/10/2015 evidenced by a signed lease agreement.

The officer has undertaken their own research for the site. Business Rate records were requested. These aligned with most of the records submitted, however an irregularity with units 7 and 8 was found. Unit 7 since 4/1/2016 can be found rated under the name of Mr J. Brown. Unit 8 is named under unit 8 as having paid rates since 1/6/2014.

Furthermore, photographic evidence of site including aerial images demonstrates that the use of site for the storage/works to motor vehicles has greatly altered over the last 10 years. The area to the immediate north of Unit 7 and to the south and immediate east of Unit 8 can be seen to accommodate considerably more vehicle activity, and vehicle related parts over time.

It has also been brought to the officer's attention that South Coast Workwear operated from Unit 7 until Autumn 2025. This appears to coincide with reports from neighbouring residents of increased activity associated with a new business occupying the unit. Information available on the company's website confirms that the business operated from Unit 1 within the wider site, which corresponds with Unit 7 as

identified on the site's entrance information board and within this application. Historic Street View imagery shows advertising for the business in September 2024, and it is also visible in images dated July 2023, May 2022 and April 2021.

Despite the various pieces of evidence submitted, these provide little more than a snapshot of the current occupiers and do not demonstrate continuous use over the requisite period. Furthermore, the nature of the businesses and the specific uses operating from each unit remain unclear.

The evidence submitted with this application is not precise and is ambiguous. The legal tests have not therefore been passed and on the balance, a continuous and clearly identifiable lawful use has not been established.

RECOMMENDATION

REFUSE

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 not lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the date specified above, the evidence submitted with this application is not precise and is ambiguous. The legal tests have not therefore been passed and on the balance, a continuous and clearly identifiable lawful use has not been established for Units 4,5,6,7 and 8.

FIRST SCHEDULE

The use of the units as office, storage and repairs.

SECOND SCHEDULE

Units 4 -8 St Denys, Dappers Lane, Angmering BN16 4EN