

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** BE/101/13/CLP**LOCATION:** Marigold Cottage
Shripney Road
Shripney**PROPOSAL:** Application for a Certificate of Lawfulness for a proposed demolition of existing property subject to any required prior approval and continued use of land as part of wider caravan park**DESCRIPTION OF APPLICATION**

This is an application for a Certificate of Lawfulness for the proposed demolition of the existing Marigolds Cottage (and removal of rear/side boundaries) to enable the site to be used for the siting of new park homes, subject to any required prior approval (i.e. for the demolition).

DESCRIPTION OF SITE AND SURROUNDINGS

The application relates to the curtilage of "Marigolds", a pitched roof yellow rendered bungalow which is located at the eastern end of Marigolds (residential) Caravan Park and fronts onto Shripney Road.

To the front (the road), there is a 2-3m high hedge above a low fence, with a 1m high close boarded fence along the caravan park entrance driveway and a 1m high fence to the rear of the cottage. Notwithstanding the defined boundaries, the cottage curtilage is very much open in nature to the caravan park. In addition, there is a gate on the side boundary which opens onto the driveway and leads to a door marked "Private" giving the impression of it being the park's office. The parking for the cottage is beyond the rear fence and hence clearly within the caravan park. Two spaces are marked as being for Marigolds Cottage.

RELEVANT SITE HISTORY

BE/74/95/CLP	Application for a Certificate of Lawfulness for a proposed use- use of the existing caravan park exclusively between 1st March and 31st October each year as the main residential accommodation for each caravan resident.	PP Required 17-01-1996 Appeal: Allowed 15 11 1996
BE/13/96	Continued use of existing caravan park throughout the year without complying with condition No 2 imposed on application BE/79/77.	ApproveConditionally 15-05-1996 Appeal: Withdrawn 03 03 1997

BE/14/96/CLP	Application for a Certificate of Lawfulness for a proposed use - use the entire existing caravan park between 1st March and 31st October each year as solely residential accommodation.	PP Required 15-05-1996 Appeal: Allowed 15 11 1996
BE/81/96	Use of existing residential caravan park for such purposes throughout the year	ApproveConditionally 05-02-1997

REPRESENTATIONS

Representations received:

None

Comments on Representations received:

None.

CONSULTATIONS

Planning Solicitor

Consultations responses received:

Arun DC Environmental Health - "Marigolds Site has a licence for 60 Residential Caravans. Whilst the home may be part of the caravan site, I am not sure it would form part of the licence, as caravans/mobile homes need to be exactly that, mobile and the brick structure would not be deemed to be this. Also not sure how many homes are currently on the site. If it is already 60 they will need permission to exceed this. If less than 60 they will be allowed to have additional homes on the site up to the maximum of 60 as long as they comply with the site licence conditions."

The Councils planning solicitor has advised as follows:

- "1. I agree with you that it is reasonable to view the site of the "wardens bungalow" as part and parcel of one planning unit comprising the caravan park.
2. This means that the bungalow can lawfully, under the Planning Acts, be demolished and the caravans sited on the site of the bungalow.
3. The red edging includes the bungalow site. See Site Plan.
4. The application form says the site is in one ownership.
5. The 1950 plan ref BE/7/50 shows that the land within the red edge including the bungalow, car parks, putting greens, WCs, washing and laundry facilities, shops etc. are all used and part of one planning use on one piece of land i.e. caravan park.
6. There is [are] shared access[es] judging from the file plans.
7. The extract from the 14/8/1965 appeal refers to the "area includes the applicants bungalow " showing the common ownership and use.
8. Where there is a single main use and several ancillary but linked uses then the whole area where those uses are carried on is one planning unit. There must be physical and functional unity. There is in this case [Burdle v SoSE 1972 3ALLER 240].

You will need to refer to Caravan Licensing Officer in EH to coordinate caravan licence amendments and confirm that if a CLP is granted in these terms then the caravan licence extension can be issued under Caravan Sites and Control of Development Act 1960.

I note that an application to amend the licence and planning permission may be needed to exceed 60 caravans. Also demolition will require prior notification under Art 31 GPDO 1995.

But these are separate matters to the simple question - is this site one or several planning units? This is the question I have been asked and which I have answered."

Comments on Consultation responses:

It is noted that (as would be expected) the planning history matches the site licence in specifying no more than 60 caravans on the site. Whilst there are no details provided as to the current number of homes on the site, a count of the number of homes present on the current Google aerial mapping revealed a total of 59 with no empty spaces. This mapping may not be up to date but it may also be the case that the applicant wishes not to exceed the 60 but to reorganise the site. This is not clear.

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."

Section 191 to 195 Town & Country Planning Act 1990 and DOE Circular 10/97 Annex 8 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.

CONCLUSIONS

Based on the evidence submitted (comprising of the covering letter, current site plan and the plan from BE/7/50/K) and that obtained during the application determination (namely observations from the site visit, plan & the planning inspector's comment from BE/14/96/CLP), it seems quite clear that Marigolds Cottage has historically been (and continues to be) a part of the caravan park and that it does not have its own planning unit. On this basis, it follows that should the bungalow be demolished, planning permission would not be required to use the newly vacant land for the stationing of residential park homes subject to the overall number of homes on the park (including the new land) not exceeding 60. Any attempt to site more than 60 park homes would require the submission of a planning application.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 12/11/13, the matter described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged black on the plan attached to this certificate, was lawful within the meaning of section 192 of the Town & Country Planning Act 1990 by reason that the land on which Marigolds Cottage is sited has always been part of the caravan park planning unit and not in a planning unit of its own.

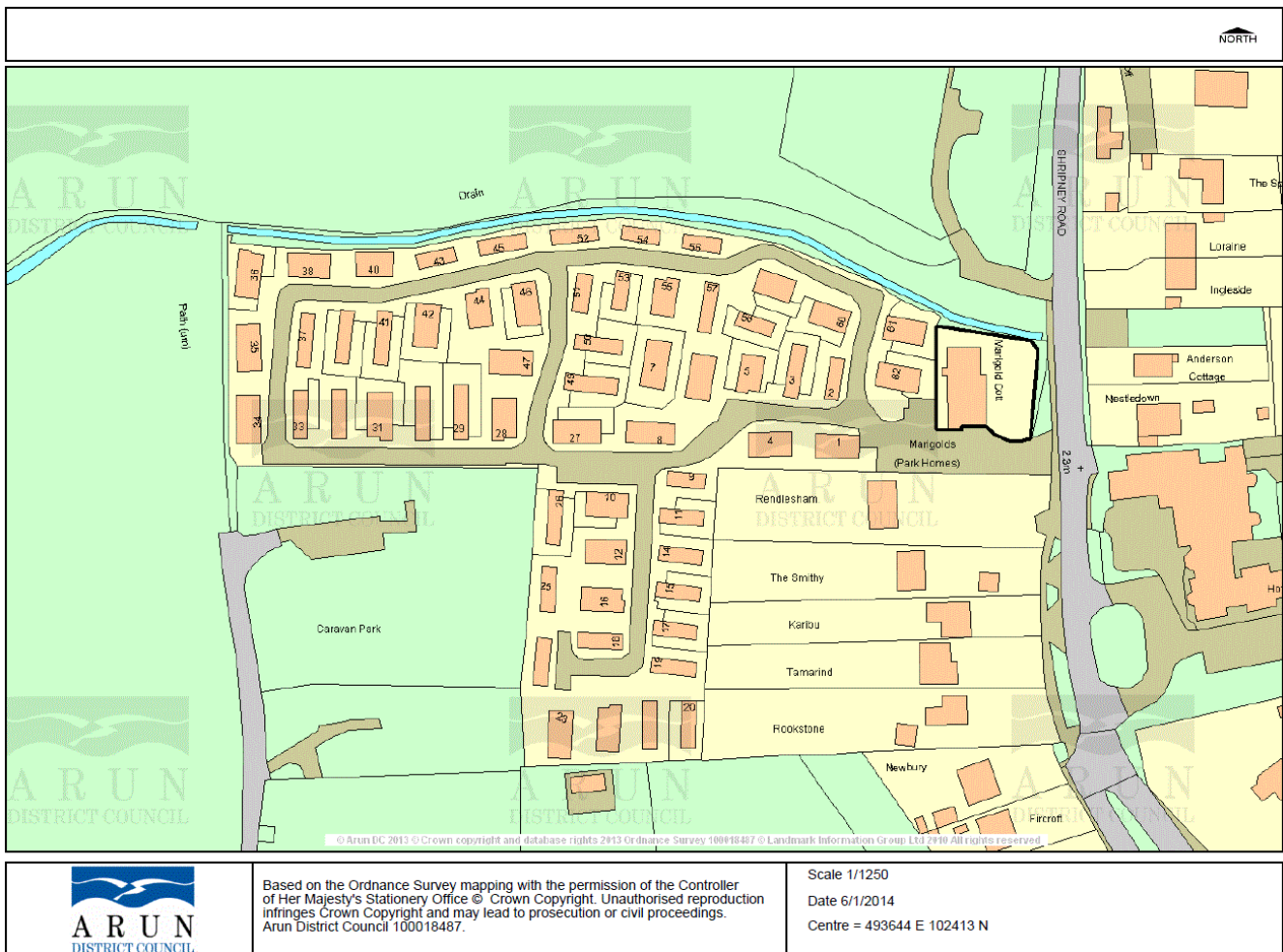
FIRST SCHEDULE

The use of the land on which Marigolds Cottage and associated garden is sited, as a part of the wider caravan park use but subject to any previous conditions attached to the wider caravan park use including condition 01 of BE/79/77 which restricts the maximum number of caravans on the site to 60.

SECOND SCHEDULE

Marigolds Cottage, Shripney Road, Bersted, West Sussex, PO22 9NZ

The existing curtilage of Marigolds Cottage as located at the eastern end of Marigolds Caravan Park.



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