

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

REF NO: BN/159/20/CLE

LOCATION: Eric Wall Nursery
Lake Lane
Barnham
PO22 0AD

PROPOSAL: Lawful development certificate for the existing use of 3 No mobile homes & outbuilding.

DESCRIPTION OF APPLICATION

This is a Lawful Development Certificate application seeking a Certificate of Lawfulness for existing use of three mobile homes and an outbuilding on a seasonal basis (March - October). The mobile homes and outbuilding located in the southern part of the site and they are placed horizontally between the glasshouses. To the front is a small area of grass which provides amenity space.

Two of the units(subject to this application) are traditional mobile homes and the third unit is a static unit. All are set on concrete blocks. In line with the Caravan Act, the mobile units comply with requirements with respect to length (20m), width (6.8m) and overall height (3.05m). The mobile home units 2 measure 7.9m x 3m and are 2.15m in height (externally). The static unit measures 10.2 x 3.2m and 2.7 m in height. The outbuilding is a permanent flat roof structure and includes a door on the north elevation and window in the side elevation facing west. It measure 3.2m x 2.4m. Is 2.5m in height and extends to 6.64 square metres and is used to house a washing machine for the residents of the mobile homes.

The applicant must provide evidence that the mobile homes has been on the site for a continuous period of time of at least 10 years and the outbuilding in excess of 4 years.

SITE AND SURROUNDINGS

The site has been in horticultural use since the 1970s and specialises in growing tomatoes. It comprises extensive glasshouses, pack house, boiler house and offices. These are mostly portal from or have some clockwork elements. They are of no particular architectural or other merit. To the north and west of the site is a residential development of 107 residential dwellings. The site lies outside of the defined built-up area boundary of Barnham, to the south of Lake Lane and to the north of the railway Line.

RELEVANT SITE HISTORY

BN/24/15/PL

Demolition of existing office & erection of 1 No. new replacement office.

ApproveConditionally
15-09-15

BN/17/10/	Development of a a glasshouse, water storage reservoir and boiler room.	ApproveConditionally 14-10-10
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BN/5/08/	Construction of a new packing facility (Resubmission following BN/13/07)	ApproveConditionally 23-05-08
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Noted.

REPRESENTATIONS

Representations Received:

Barnham & Eastergate Parish Council

Barnham and Eastergate Parish Council: No objection.

Yapton Parish Council has fully considered the above application and support on the basis that the following condition are imposed:

- Each unit is not occupied as a permanent residence. It must be occupied on a weekly basis with a void of 4 weeks during every 12 month period.
- Each unit must have sufficient parking provision for a one-bedroom unit.
- Each unit must be conditioned for agricultural worker/seasonal work occupation only.

Comments on Representations Received:

This application is restricted to test the legal merits of what is being applied for i.e whether the units have been on the site for more than 10 years and the outbuilding for more than 4 years.

CONSULTATIONS

Consultations Responses Received:

None.

Comments on Consultation Responses:

N/A

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 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.

Section S171(1)-(3) and S191 TCPA 1990. The relevant time period is December 2010 to December 2020 i.e. 10 years to the date of the application for caravans and 4 years (from December 2016 to December 2020) for outbuilding.

CONCLUSION

The submitted evidence demonstrates the use of the application site for the stationing of 3 mobile homes since 2005. The applicant provide historic aerial photographs and three 'Statutory Declarations'.

The applicant has submitted copies of:

- Aerial Map dated 23/04/20;
- Aerial Map dated 14/09/19;
- Aerial Map dated 06/08/18;
- Aerial Map dated 10/09/15;
- Aerial Map dated 31/12/14;
- Aerial Map dated 06/06/13;
- Aerial Map dated 31/08/12;
- Aerial Map dated 01/01/05.

- A copy of Statutory Declaration of David John Large accompanied by Appendices 1 and 2.

He claims that he worked at Eric Wall Ltd since 1977 and confirms that the 3 caravans and outbuilding, as seen in Appendix 1 and Appendix 2, have stood in the same location on Site A for a minimum of 15 years and Eric Wall Ltd has since the installation of the caravans, continued to use the caravans to house seasonal workers that are under the employment of Eric Wall Ltd on an annual basis.

- A copy of Statutory Declaration of Dorota Maka accompanied by Appendices 1 and 2.

She claims that she has been working at Eric Wall Ltd since 2004. In 2005 she lived in one of the caravans on site, as seen in Appendix 1 and Appendix 2, for 9 months and she confirms that the caravans have remained in the same location and have continued to be used as accommodation for seasonal workers under the employment of Eric Wall Ltd on an annual basis.

- A copy of Statutory Declaration of Michael James Hine accompanied by Appendices 1 and 2.

He claims that he has been working at Eric Wall Ltd since 1996. He claims that in 2004 he installed the caravans as seen in Appendix 1 and Appendix 2. The caravans have connections for electricity supply, fresh water and are connected to the foul drainage system on site and have continued to be used to

house seasonal workers under the employment of Eric Wall Ltd on an annual basis from the dated of their installation.

The applicant in their Planning Statement confirms that the existing units (subject to this application) are used on a seasonal basis (March - October) and the enclosed Statutory Declarations confirm this position.

From the evidence submitted and judged on a balance of probability it is considered sufficient and is precise and unambiguous. The LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version less than probable. There is therefore no good reason to refuse the application.

It is considered on the balance of probability that consent should be granted. It is therefore recommended that the certificate is granted in accordance with the following terms.

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 three caravans and outbuilding had been in use to house seasonal workers under the employment of Eric Wall Ltd on an annual basis (March - October) for a continuous period of 10 years.

FIRST SCHEDULE

Use of the site as indicated on the on the submitted Site Location Plan, drawing number 2029-001; Block Plan, drawing number 2029-002; Site Plan: Caravan & Utility Plans and Elevations, drawing number 2029-003; and Site Plan: Mobile Home Plan and Elevations, drawing number 2029-004.

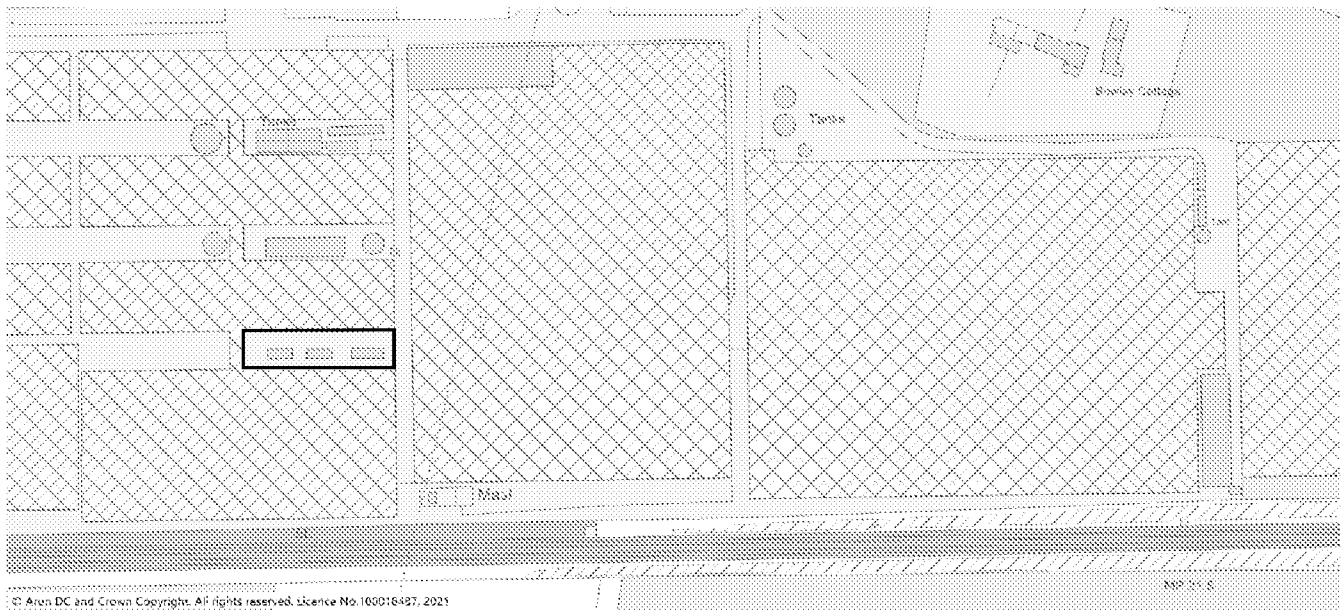
SECOND SCHEDULE

Land at The GREEN HOUSE Sussex Ltd, Lake Lane, Barnham, PO22 0AD.

EXTENT OF USE

Use of the existing 3 caravans and outbuilding to accommodate seasonal workers under the employment of Eric Wall Ltd on an annual basis (March - October).

BN/159/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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