

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

REF NO: BR/105/20/CLE

LOCATION: Regal Fish And Chips
231 Chichester Road
Bognor Regis
PO21 5AQ

PROPOSAL: Lawful development certificate for an existing use as a Hot Food Takeaway (A5 Use).

DESCRIPTION OF APPLICATION

The application seeks a certificate of lawfulness for the use of the property as Hot food takeaway (A5).

SITE AND SURROUNDINGS

The site is occupied by a two storey semi detached property which consist of a commercial premises to the ground floor and residential above. The surrounding area is predominately residential properties.

RELEVANT SITE HISTORY

None.

REPRESENTATIONS

Representations Received:

Bognor Regis Town Council

None.

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.

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.

CONCLUSION

The evidence submitted in support of the application consists of financial documents since 2014. Prior to this statutory declarations have been supplied from the previous owners confirming the premises was used as a hot food takeaway from 2001-2014.

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. Reference to Google maps shows the building in the claimed use since 2009. There are no Google map images prior to that date. There is therefore no good reason to refuse the application.

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 property had been in use as A5 for a continuous period of 10 years.

FIRST SCHEDULE

**The use of the site as a hot food takeaway (A5) as indicated on the plans
- Location Plan**

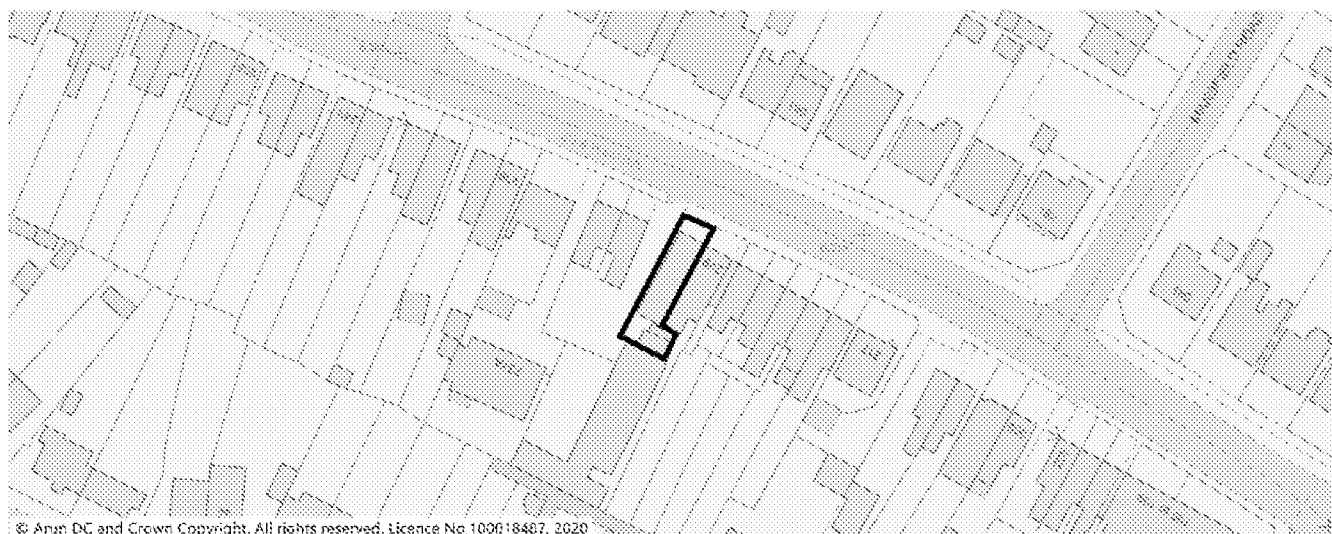
SECOND SCHEDULE

Regal Fish and Chips, 231 Chichester Road, Bognor Regis, PO21 5AQ.

EXTENT OF USE

The use of the site as hot food takeaway (A5).

BR/105/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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