

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/251/18/CLE

LOCATION: The Old School
Bersted Street
Bognor Regis

PROPOSAL: Lawful development certificate for an existing dance school.

DESCRIPTION OF APPLICATION

Lawful Development Certificate for the existing use of The Old School, Bersted Street as a D1 school for the specialist teaching of children aged from 3 to 18 years old in the practice of all forms of dance, singing and drama. It also has ancillary use to provide child care day nursery.

DESCRIPTION OF SITE AND SURROUNDINGS

A former junior school consisting of two buildings and a school yard to the front in a residential area in Bersted.

RELEVANT SITE HISTORY

None relevant.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

No objection.

Comments on Representations received:

Comments noted.

CONSULTATIONS

Consultations responses received:

ADC Legal Advice - Although there is no statutory declaration from the applicant the evidence available to the Council is that the Premises have been used for no purpose other than a school for some time prior to the applicant ownership which commenced on 22nd January, 2000.

- I am of the opinion that the word Education in Use Class D1 has its usual meaning and the teaching of dance falls within that definition

- In all of the circumstances I am satisfied that for a period in excess of 10 years the Premises have been used for purposes with Use Class D1 and that as Art of Dance and Fitness is for the purposes of Education it is in the same Use Class and therefore under paragraph 3(1) of the Order there is no development.

Comments on Consultation responses:

Comments noted.

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.

In this instance the proposed works will be assessed against the Town and Country Planning Act 1990 (as amended) c. 8 Part VII Introductory Section 171B:-

Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

CONCLUSIONS

The evidence provided is sufficient to demonstrate that the use as a D1 educational use has been subsisting for more than 10 years and thus is immune from enforcement action in line with the Town and Country Planning Act 1990 (as amended) c. 8 Part VII Introductory Section 171B (3).

RECOMMENDATION

PP NOT REQUIRED

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 dance, singing and drama school with an ancillary nursery school use continuously for a period in excess of 10 years.

FIRST SCHEDULE

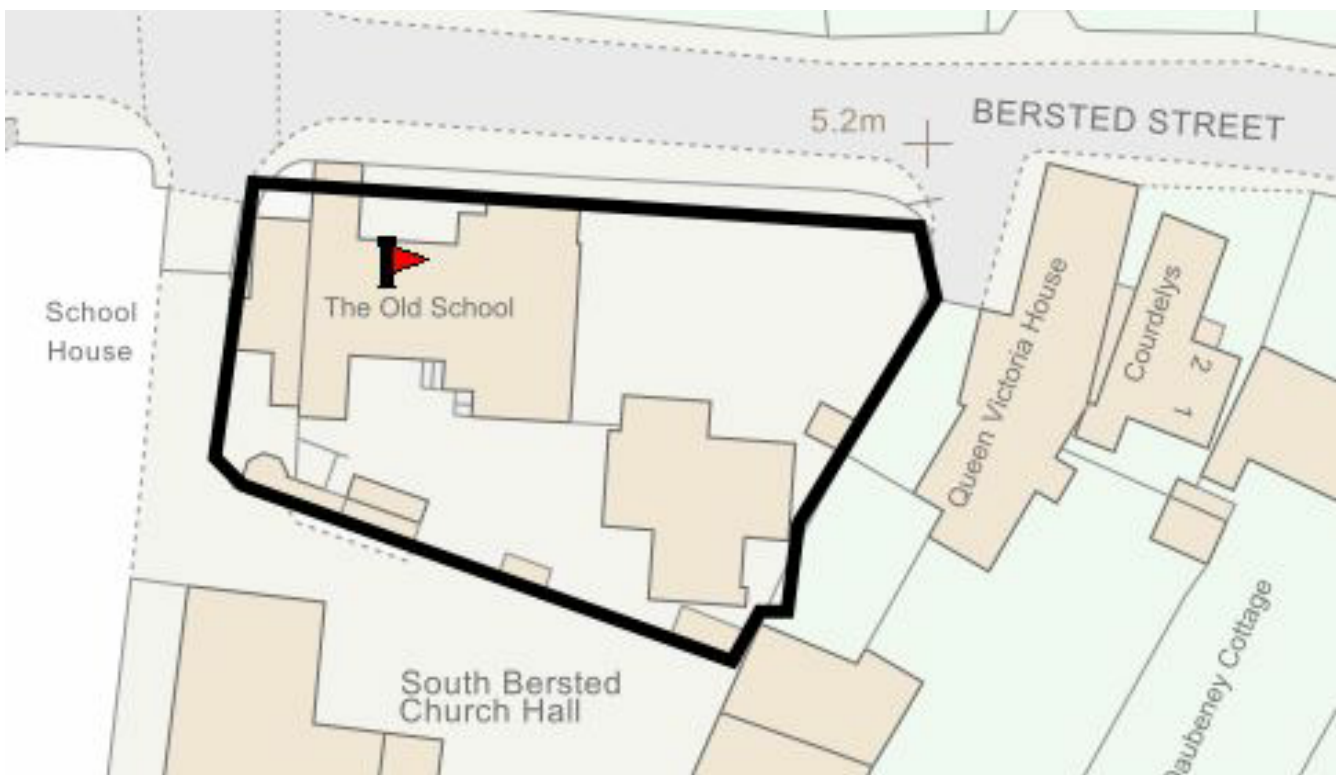
Lawful development certificate for the existing use of The Old School Bersted as a D1 educational establishment including use

SECOND SCHEDULE

The Old School, Bersted Street, Bognor Regis, West Sussex, PO22 9QE

EXTENT OF USE

Use of the premises as a D1 educational establishment including use for the specialist teaching of children aged from 3 to 18 years old in the practice of all forms of dance, singing and drama and ancillary use to provide child care day nursery.



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