

Comment from Legal Services

1. I am asked to comment on an application for CLEUD at Unit 1, 5 Bedford Street, Bognor Regis, PO21 1SD ("the Premises")

BACKGROUND

2. On 3rd April 2018 the Council received an application for a CLEUD for existing use as storage and sales of second hand white goods as A1 Shops in Schedule 1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

3. The application was validated on 24th April, 2018.

4. The application states that the description of the existing use is *"Storage and sales of second hand white goods, i.e washing machines, fridge freezers, kitchen household appliances T.Vs"*.

5. Further, the application states that use began "more than 10 years before the date of the application"

6. The application is supported by letters from:

a) John Lawman of 'The Appliance Centre' which states that: *"The property was bought from Mr Keith White in 2004 who was using the unit to repair and sale Televisions. As a domestic appliance retailer in the town the purpose of the unit was used for storing appliances although occasionally the customers would purchase machines directly from the storage facility. This continued until 2007/8 when larger storage premises were purchased.*

Although there was an interim period of 2 years when a cleaning company used the premises for storage, Second Chance Domestics continued to trade from the premises selling second had white goods"

b) Pam Knight, Accountant, dated 20th November 2018, states, in respect of 'Second Chance Domestics Unit 1, 5 Bedford Street, Bognor Regis PO21 1SD': *"Mr Mears has been my client for the past seven years and has traded from the above address, selling second hand domestic appliance during the whole of the period mentioned."*

c) Mr K A White dated 13th February 2018 states: *"Regarding Units 1 & 2 Bedford Street. These units were commissioned by Ex Safeways Plc as replacements for demolished units in Bedford Street to make way for store extension. Unit 2 for Mr Johnston ex Johnstons Domestics as a storage unit and Unit 1 for myself ex K.W. Electrical Services to continue my business repairing T.Vs and Videos and Selling S/hand TVs etc. this is why shop front doors were fitted in construction.*

I traded there from 1993 until selling to present owner in 2004."

7. The only relevant planning permission for this property was BR/54/93 which was granted on 19th May 1993 and gave permission for two Class B1/B8 commercial units.

8. In the circumstances of this case the evidence shows:

- a) 1993 Planning permission for B1 / B8 Use;
- b) 1993 to 2004 used by Mr White for the repair and sale of televisions;
- c) 2004 to 2007/8 used by Mr Lawman for the storage of white goods and occasional sale to the public;
- d) 2007/8 to 2009/10 used by cleaning company for storage;
- e) 2009/10 to 2018 used by Second Chance Domestic for the storage, repair and sale to the public of white goods
- f) A cleaning business advertises as being based at the premises.

9. I am of the opinion that the Applicant has failed to show that the Premises has been used for Class 1A, retail sale of goods other than hot food and the display of goods for sale for the period of 10 years prior to the date of the Application in April 2018.

10. I am satisfied that for the period 2004 to 2010 the Premises were primarily for the purpose of storage, with the occasional sale and, therefore, the use fell within Class B8 and was in accord with the Planning Permission.

11. Further I am not satisfied that the Premises are not currently being used for use as an Office, under B1, and Storage, under B8, by a cleaning business.

12. Further, I am satisfied that the period from 2010 to the date of the Application in 2018 is less than 10 years and therefore enforcement action can be taken, so a Certificate of Lawfulness of Existing Use should not be issued.