

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

REF NO: CM/11/20/CLE

LOCATION: Land adjacent to Chuch Farm Barn
Horsemere Green Lane
Clymping
BN17 5QX

PROPOSAL: Lawful development certificate for the existing use as Class B8 Storage.

DESCRIPTION OF APPLICATION

The application seeks a certificate of lawfulness for the existing use of land for open storage.

SITE AND SURROUNDINGS

The site is an area of land between two areas of housing along Horsemere Green Lane.

RELEVANT SITE HISTORY

REPRESENTATIONS

Representations Received:

Climping Parish Council
No objection.

No representation received from nearby occupiers.

Comments on Representations Received:

Noted.

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 May 2010 to May 2020 i.e. 10 years to the date of the application.

CONCLUSION

From the evidence submitted which consists of a statutory declaration that the land has been used for open storage not in connection with agriculture, the LPA's aerial images which show

- 4 vehicles/trailers stationed on the land in 2007, -
- 7 vehicles trailers stationed on the land in 2012 has no evidence itself, nor any from others, to
- 8 trucks, trailers and a boat stationed on the in 2018

The applicant's planning statement which show vehicles/trailers stationed on the land in 2020.

There is no evidence that contradicts or otherwise make the applicant's version less than probable. There is therefore no good reason to refuse the application.

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 for open storage of plant and machinery not in association with agriculture for a continuous period of 10 years.

FIRST SCHEDULE

Use of the site for open storage of plant and machinery not in association with agriculture (Use Class B8).as indicated on the plan.

- Location Plan

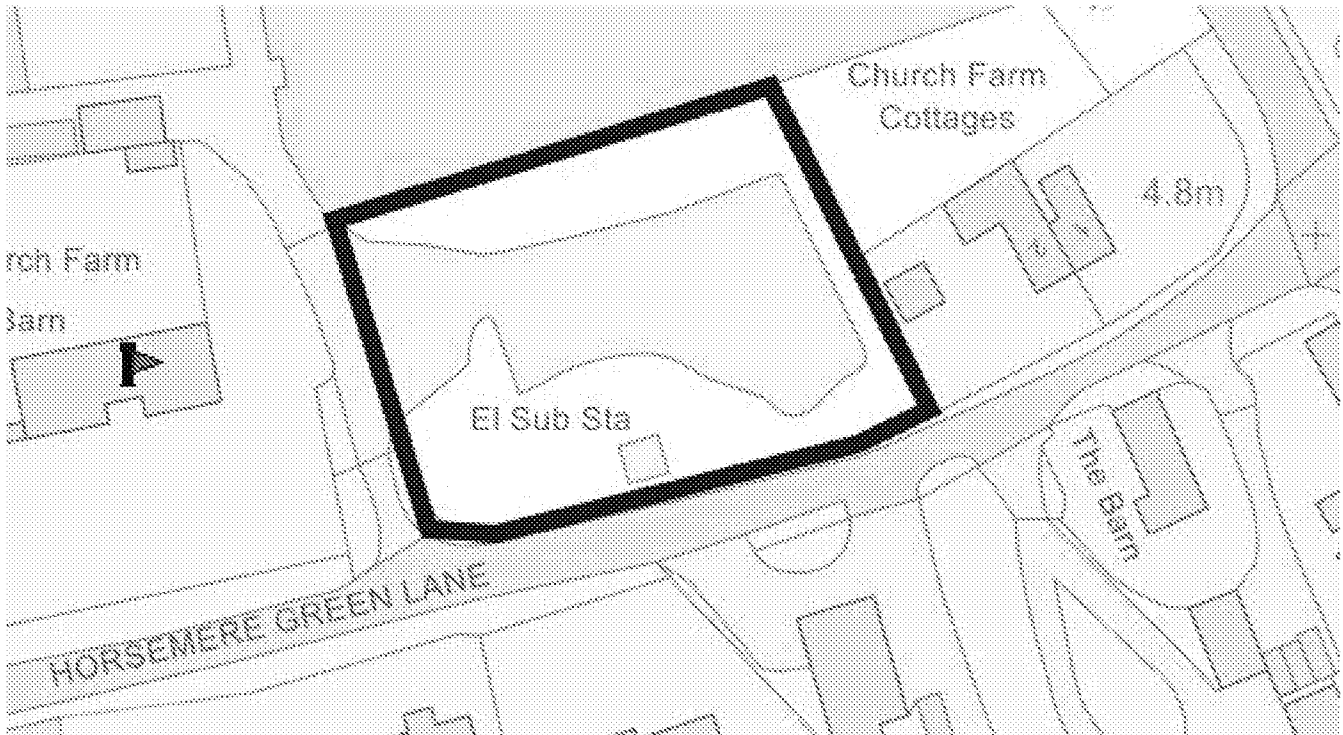
SECOND SCHEDULE

Land adjacent to Church Farm Barn, Horsemere Green Lane, Clymping, BN17 5QZ

EXTENT OF USE

Use of the site for open storage of plant and machinery not in association with agriculture (Use Class B8).

CM/11/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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