



Unit D, Lunesdale, Upton Magna Business Park, Upton Magna, Shrewsbury, SY4 4TT

Supporting Statement

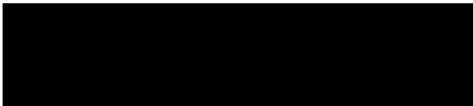
Certificate of Lawfulness of Proposed Use or Development under Section 192 of the Town and Country Planning Act 1990 to confirm planning permission is not required for the:

“Use of the land as a static caravan park for 39 caravans (as shown on plan reference 20_1123_003) for 12 months a year, except that the caravans shall not be occupied as a person’s sole or main place of residence and where the owners/operators shall maintain an up to date register of the names of owners/occupiers of individual caravans on the site and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority; save that one caravan on the site which shall be used for warden purposes only in connection with this site only and be inhabited all year round.”

The land being that identified on the site Location Plan accompanying the application and situate at Jaybelle Grange Lodge Park, Yapton Road, Littlehampton, West Sussex, BN17 5RU

June 2021

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GPS Ref: 20_1123

Applicant: Frankham Homes Ltd

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1. INTRODUCTION

- 1.1. Green Planning Studio Ltd have been instructed by Frankham Homes to submit an application for a Certificate of Lawfulness of Proposed Use or Development (CLEUD) in order to confirm that planning permission is not required for the *use of the land as a static caravan park for 39 caravans (as shown on plan reference 20_1123_003) for 12 months a year, except that the caravans shall not be occupied as a person's sole or main place of residence and where the owners/operators shall maintain an up to date register of the names of owners/occupiers of individual caravans on the site and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority; save that one caravan on the site which shall be used for warden purposes only in connection with this site only and be inhabited all year round* ‘
- 1.2. The land is that identified by a red line on the Location Plan accompanying this application and is situate at Jaybelle Grange Lodge Park, Yapton Road, Littlehampton, West Sussex, BN17 5RU.
- 1.3. This Supporting Statement has therefore been produced to accompany the application for a Certificate of Lawful Proposed Use or Development in order to attain a legal determination from the Local Planning Authority (Arun District Council) that planning permission is not required for the land to be used for the use as set out in the application.
- 1.4. The site Location Plan accompanying this application indicates the extent of the site subject to this Certificate of Lawfulness of Proposed Use or Development (ref: 20_1123_001).

2. SITE AND SURROUNDINGS

- 2.1. The application site is the area within the red line on the associated site Location Plan (ref: 20_1123_001). It is currently occupied with 38 static caravans, one of which is used as warden's residence.
- 2.2. The application site is located to the rear of the Oystercatcher public house which stands at the junction of the A539 running east to west and the B2233 road heading in a northerly direction. The site is accessed via an existing access off the B2233 (Yapton Road) on the eastern side of the site.
- 2.3. Whilst the planning history of this site with regards the use of the land for stationing of caravans dates from 1999, a number of subsequent planning applications have been made to Arun District Council. The planning permission relevant to this Section 192 application subject of this Statement was granted on 27th July 2007 (reference CM/12/07/) for the *'Variation of condition 9 imposed on Planning Permission CM/13/04 to extend length of holiday season to 12 months subject to conditions'* and was made under Section 73 of the Town and Country Planning Act 1990.
- 2.4. Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. Planning permission CM/12/07/ was issued with 9 planning conditions.
- 2.5. Following the granting of planning permission, the development has commenced and is extant.

3. CERTIFICATE JUSTIFICATION AND GROUNDS

3.1. Green Planning Studio Ltd have been instructed by Frankham Homes Limited to submit an application for a Certificate of Lawfulness of Proposed Use or Development (CLEUD) in order to confirm that on the area outlined in red on the site Location Plan accompanying this application, planning permission is not required for the *use of the land as a static caravan park for 39 caravans (as shown on plan reference 20_1123_003) for 12 months a year, except that the caravans shall not be occupied as a person's sole or main place of residence and where the owners/operators shall maintain an up to date register of the names of owners/occupiers of individual caravans on the site and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority; save that one caravan on the site which shall be used for warden purposes only in connection with this site only and be inhabited all year round. A plan entitled 'Alternative layout for 39 static caravans' forms part of the application (reference 20_1123_003).*

3.2. Section 192(4) of the Town and Country Planning Act 1990 states that;

'The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operation are begun, in any of the matters relevant to determining such lawfulness.'

What can the land be used for?

3.3. Planning permission reference CM/12/07/ dated the 20th July 2007 (Appendix A) granted permission for the '*Variation of condition 9 imposed on Planning Permission CM/13/04 to extend length of holiday season to 12 months subject to conditions*'. Consequently, condition 9 of planning permission CM/13/04 was not applied to permission CM/12/07 and thus there is no longer a planning condition restricting the occupation of a caravan at the site during certain times of the year as condition 9 of permission CM/13/04 imposed. Thus, under permission CM/12/07/, caravans can be occupied at all times for 12 months of the year.

- 3.4. Condition 8 of planning permission CM/12/07/ stipulates that the caravans shall not be occupied as a person's sole or main place of residence and requires the owner/operator to maintain an up to date register of the names of the owners and occupiers of the individual caravans on the site and of their main home address and to provide this to the Council upon request.
- 3.5. Condition 9 of planning permission CM/12/07/ allows for one caravan on the site to be used for warden purposes only in connection with the site and can be inhabited all year round.
- 3.6. From the Council's online records to permission CM/12/07/, there is a plan entitled 'ALTERNATIVE LAYOUT FOR 38 UNITS' dated 4th November 2008 and this appears to have been approved as a minor amendment post approval of the application. There is no specific reference to this or any other plans in the conditions attached to the decision notice of permission CM/12/07/. This layout has been implemented and is currently what is present at the site at this moment in time.

What is being proposed in this application?

- 3.7. This application proposes an alternative layout as shown on plan reference 20_1123_003 and would allow for the stationing of 39 static caravans at the site. The description of the proposed development as outlined in this application includes the limitations of the conditions of permission CM/12/07/, as referred to above. The justification and grounds on which the proposed alternative layout would be lawful is based on relevant planning case law, as set out in the paragraphs below.

Relevant Case Law

- 3.8. There have been a number of cases which have considered how a grant of planning permission can lawfully impose restrictions or limitations to the use permitted.
- 3.9. ***I'm Your Man Ltd v Secretary of State for the Environment (1999) 77 P&CR 251*** (Appendix B) concerned the grant of planning permission for the "...additional use of warehouse/factory for sales, exhibitions and leisure activities for a temporary period of seven years...". It was held in that case that the time limit was a limitation and not descriptive of the use itself and such a limitation could only be imposed by a development order or otherwise imposed by condition.

3.10. This is supported further by the Courts as the findings in *I'm Your Man* were accepted in *R (on the application of Resul Atlunkaynak) v Northampton Magistrates' Court and Kettering Borough Council [2012] EWHC 174 (Admin)* (Appendix C). This case involved a planning permission for the "...Conversion of shop to restaurant kitchen and hot food takeaway as an extension to the premises at number 15...". It was held that the wording "as an extension to" was a limitation and not a description of the use itself, which could only be validly imposed by condition.

3.11. Richards LJ states at paragraph 39 of the judgment:

"...The relevant principle, drawn from the wording of the statute, is a general one: if a limitation is to be imposed on a permission granted pursuant to an application, it has to be done by condition..."

3.12. Similarly, in the case of *Smout v Welsh Ministers [2011] EWCA Civ 1750* (Appendix D) where the planning permission related to a phased development described as A to F, the court held that there was nothing in the planning permission to require the phases to be developed in alphabetical order and that had the local authority desired to limit the development in this way they should have done so by way of a condition.

3.13. The case of *Cotswold Grange Country Park LLP v Secretary of State for Communities and Local Government and Tewkesbury Borough Council [2014] EWHC 1138 (Admin)* (Appendix E) related to a planning permission to "...replace and re site 40 static caravans and provide 14 additional static caravans...". The court's conclusions were set out at paragraphs 27 – 30 of the judgment:

"...27...I agree that the description of the development is clear from the face of the permission, in this case: as the Inspector found, the Council conceded (see paragraph 5.4 of its statement to the Inspector) and Miss Fernades submitted with compelling force, it is clear that the permission granted is described in terms of only 54 caravans plus an additional caravan for the warden and office. Extrinsic evidence is therefore not required; but, in fact, the approved drawing attached to the permission confirms that there are to be 54 caravans, and 54 only, and where the 54 individual pitches are to be. The Inspector

concentrated on this aspect of the matter, and concluded, rightly, that the description of the development was so.

28. However, that is not the determinative issue, which is not whether the limitation is imposed merely in terms of a restricted description of the permission granted, but whether it is in the form of a condition. That is the I'm Your Man Principle.

30...Therefore, whilst I accept that the Inspector acknowledged the principle derived from I'm Your Man, I have come to the firm conclusion that he failed properly to apply it. He failed to respect the difference between a limitation of numbers of caravans in the description in the grant (present in this case), and a limitation of such numbers in the form of a condition (not present in this case). In that failure, unfortunately, the Inspector (and the Council before him) materially erred in law, because only the latter was capable of imposing a limitation at law..."

- 3.14. In the above case, the Court held that the number of caravans that could be stationed on the land was unlimited as there was not a condition imposing this.
- 3.15. Therefore, it is clear from the above, that for the number of caravans permitted on the site to be limited to a specific number, or the layout of the site to be restricted to any particular plan or drawing, then this needed to be secured through the imposition of a suitably worded condition. As paragraphs 3.3 to 3.6 identify, there are no conditions attached to planning permission CM/12/07/ limiting the number of caravans or restricting the layout of the site which have been imposed.

4. CONCLUSION

- 4.1. This Supporting Statement forms part of a Section 192 which seeks confirmation that planning permission is not required for the *use of the land as a static caravan park for 39 caravans (as shown on plan reference 20_1123_003) for 12 months a year, except that the caravans shall not be occupied as a person's sole or main place of residence and where the owners/operators shall maintain an up to date register of the names of owners/occupiers of individual caravans on the site and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority; save that one caravan on the site which shall be used for warden purposes only in connection with this site only and be inhabited all year round.*
- 4.2. The land is that identified by a red line on the Location Plan accompanying this application and is situate at Jaybelle Grange Lodge Park, Yapton Road, Littlehampton, West Sussex, BN17 5RU.
- 4.3. In accordance with the relevant case law, there is no limit on the number of static caravans which can be stationed on the land shown edged red on the site Location Plan (reference 20_1123_001) as there are no conditions attached to planning permission CM/12/07/ controlling this matter.
- 4.4. Similarly, there is no restriction regarding the layout of the static caravans which can be stationed on the land concerned, as once again there are no conditions attached to planning permission CM/12/07/ controlling this matter.
- 4.5. On this basis, a Certificate of Lawful proposed Use under Section 192 of the Town and Country Planning Act 1990 should be issued for the use of the Jaybelle Grange Lodge Park, Yapton Road, Littlehampton, West Sussex, BN17 5RU as sought.

5. APPENDICES

- A. Decision Notice for Planning Permission Reference CM/12/07/ dated 20th July 2007
- B. I'm Your Man Ltd v Secretary of State for the Environment (1999) 77 P&CR 251
- C. R (on the application of Resul Atlunkaynak) v Northampton Magistrates' Court and Kettering Borough Council [2012] EWHC 174 (Admin)
- D. Smout v Welsh Ministers [2011] EWCA Civ 1750
- E. Cotswold Grange Country Park LLP v Secretary of State for Communities and Local Government and Tewkesbury Borough Council [2014] EWHC 1138 (Admin)