

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/40/19/CLE

LOCATION: Unit W, Rudford Industrial Estate
Ford Road
Ford
BN18 0BD

PROPOSAL: Application for Certificate of Lawfulness for an Existing Use - Continuance of the use of land for one-storey storage containers.

DESCRIPTION OF APPLICATION

The application as submitted sought a CLE for the storage of up to 50 one storey containers. As such the proposed development is for a use of land. For a certificate to be granted it would need to be shown that the land had been used in the manner described for the last ten years.

Whilst, there is aerial photographic evidence to demonstrate that the use of the land has been for the storage of single storey containers since 2009, it has not been possible to determine that there has been 50 containers on the land as a minimum during that time. Therefore, that part of the description has been deleted so that it now simply refers to the use of the land for the storage of single storey containers. The question of how many containers can be stored on the land is now a matter for the future as to whether a material change of use has occurred through intensification of use.

The evidence available shows the following number of containers on site:

2007 - 15
2010 - 26
2012 - 45
2015 - 33
2019 site visit 44 (particularly observed by large container lorry making a delivery)

There was also two mobile homes being stored which were not occupied and not connected to services.

SITE AND SURROUNDINGS

The site in question is a compound adjacent to the Rudford Industrial Estate. The site is enclosed by a metal security fence. Previously the eastern boundary was enclosed by substantial evergreen trees. These have been recently removed making the site more open to view. However, the planning merits of the development are not relevant to the determination of this application.

RELEVANT SITE HISTORY

CM/24/17/CLE	Certificate of Lawfulness for an existing use or development - continuance of the use of land for one-storey and two-storey storage containers since before July 2007.	Withdrawn 19-01-18
CM/29/02/	Change of use to open storage of scaffolding and parking for cars and lorries. Retaining existing building for office and storage.	ApproveConditionally 15-11-02

None of the planning history in terms of applications for permission relates to the required 10 year period. The 2002 approval does relate to use of land for storage.

REPRESENTATIONS

Representations Received:

Concern is raised about the loss of the trees on the eastern boundary. It is suggested that these were a requirement of the original permission in the eighties.

Comments on Representations Received:

The planning merits of the proposal are not relevant to whether the land has been used for the stated purpose for the last ten years. Therefore it is not possible for the Council to reimpose a planning condition seeking landscaping even if such were a desirable objective. Furthermore, whilst it is not a matter for this application it would normally be the case that any landscaping requirements imposed by condition would end after 5 years (assuming the landscaping had become established).

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.

CONCLUSION

There is considered to be sufficient evidence to warrant a certificate of lawful use being granted.

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 use of the land has been used for storage of one storey containers for a continuous period of 10 years.

FIRST SCHEDULE

Lawful Development Certificate for the existing use of land for the storage of single storey storage containers.

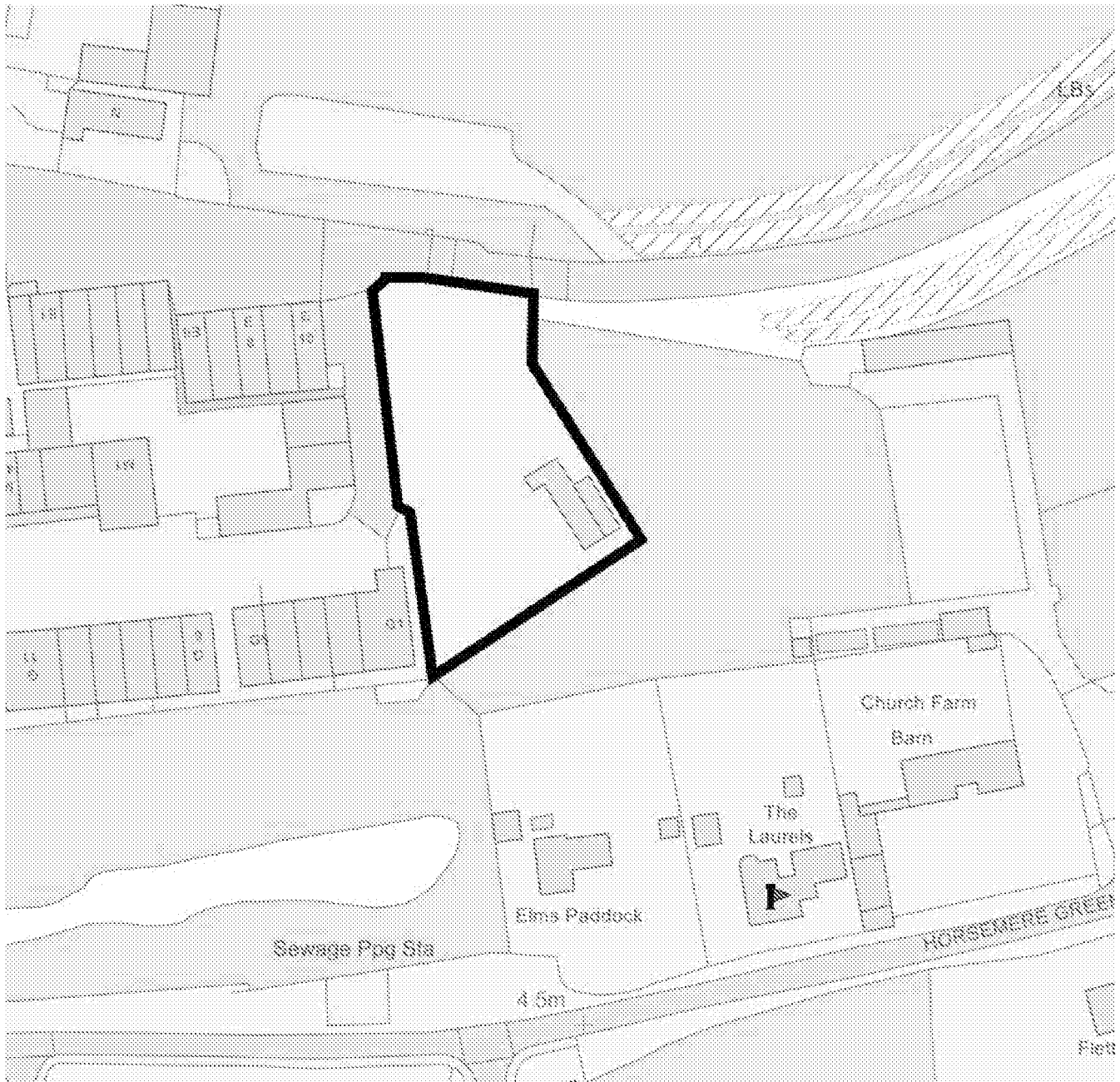
SECOND SCHEDULE

Unit W, Rudford Industrial Estate, Ford Road, Ford, BN18 0BD.

EXTENT OF USE

Use of land for storage of single storey storage containers

CM/40/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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