

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** CM/4/18/CLP**LOCATION:** Bairds Farm Shop
Crookthorne Lane
Climping**PROPOSAL:** Lawful development certificate for the proposed demolition of a portacabin & use of part of existing farm shop as a pet shop.**DESCRIPTION OF APPLICATION**

The proposal is to use part of the premises as a pet shop and aquatic centre.

DESCRIPTION OF SITE AND SURROUNDINGS

The site comprises part of Bairds farm shop which has a parking area to the site frontage

RELEVANT SITE HISTORY

CM/34/95	Change of use of Bairds Farm Shop to include the sale of fresh meat and grocery items	App Cond with S106 22-07-1997
CM/31/02/	Renewal of temporary planning permission CM/28/01/ for lean-to building.	ApproveConditionally 18-12-2002
CM/33/02/CLE	Application for a Certificate of Lawfulness for an existing use - use of part of farm shop site as Garden Centre	Refused 29-05-2003
CM/17/03/CLE	Application for a Certificate of Lawfulness for an existing use - shop (primary use) and garden centre (ancillary use).	Approve 16-03-2004
CM/40/02/	Extension to form shop to provide sales and associated facilities.	App Cond with S106 16-01-2006
CM/27/05/LEG	Application under section 106 of the Town & Country Planning Act 1990 relating to CM/40/02/ for extension to Bairds Farm Shop A259 Climping Littlehampton.	No Further Actn 27-10-2008
CM/13/12/	Installation of 1no. window	ApproveConditionally 05-11-2012

CM/1/16/PL	Change of use of land from agricultural to dog training & off lead facility. Departure from the Development Plan.	ApproveConditionally 22-03-2016
CM/20/13/CLE	Application for Certificate of Lawfulness for use of land as a farm shop and for purposes ancillary to the farm shop	Approve

The goods sold in the original part of the farm shop are restricted by a Section 106 Agreement. The proposal refers to the farm shop area which excludes the outside plant sale area. The ancillary uses were approved under the Lawful development Certificate CM/20/13/CLE.

REPRESENTATIONS

Representations received:

None

Comments on Representations received:

None

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.

Section 191 to 195 Town & Country Planning Act 1990 has 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.

CONCLUSIONS

The application relates to part of the Farm Shop. In an area currently used for sale of farm goods, butcher and bakery goods and household items. Planning permission is not needed when an existing and proposed use fall within the same 'use class', or if The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) says that a change of use is permitted to another specified 'use class'.

The application is to use part of the premises for an aquatic and pet shop which normally would fall within Use Class A1 which is within the same use class as the extended part of the farm shop

and would involve no material change of use had it not been that this part of the premises is restricted in what it can sell by a legal agreement.

The part of the premises relating to this application was included in the Section 106 Agreement dated January 2006 which restricted goods sold within the Farm Shop at that time to bakery, butchers and greengrocery and items necessary for running a household. The proposed use would not fall within the definition of any of these restricted items.

The lawful development certificate which established that the site was used as a Farm Shop and for purposes ancillary to it included the part of the site proposed, but did not replace the original Agreement. The use of the premises for A1 purposes would not be ancillary to the main use as a farm shop it would comprise a new use including a plant sale area. The plant sale area of the premises does not appear capable of operating as a separate planning unit since the footprints of the uses do not overlap.

The evidence submitted with the application is not clear and precise. There are no floor plans of the existing and proposed layouts or any information outlining how the use would operate in relation to the existing permitted use. It is assumed that the whole of the premises would be utilised by the applicant and that only the outside plant sales area and coffee shop would be retained, but the existing and proposed extent of these uses are not clarified in the application.

Sufficiency of Evidence is considered in the NPPG Guidance LDCs Part 3 Application and Determination

The evidence judged on a balance of probability and the above criteria is insufficient and is imprecise and ambiguous. No information has been submitted in relation to the planning history of the site and no justification given for non adherence with the existing s106 Agreement restricting goods sold.

The evidence analysis with comments is:

-Application - the forms and submitted floor plans do not clearly identify where within the premises the use would operate and how it would link with the existing use.

- There is very little supporting information. Only a copy of the previous Certificate of Lawfulness documentation CM/20/13/CLE, the 2006 Section 106 Agreement and the supporting statement for the Certificate of Lawful Development from Brachers LLP.

- The letter from Maidenhead Aquatics outlines the hours of opening, the proposed goods to be sold and states the existing plant sale offer and coffee shop are to be retained.

- Additional information was submitted by the agent on 23-05-2018 relating to household expenditure and the increasing market for pets and associated sales and statistics relating to ownership and households. The article from Mintel Press refers to a drop in pet ownership to 56% of homes in 2017. This lends weight to the view that the keeping of pets is not necessary for the running of a household since 44% of homes do not have a pet.

- The S106 deed refers to the goods and produce sold in the building and includes items 'necessary for the running of a household'. Whilst the keeping of pets is desirable in some

households It is not considered that it is necessary to the running of a household. No evidence has been submitted to support this assertion other than details of household expenditure which demonstrates a significant amount of spending on pets.

- The hours of operation are not considered to be coincidental with the farm shop, the customers would not necessarily purchase garden goods as well.

It is considered that even though the use as a pet shop and aquatics shop is retail A1 use, the use would not accord with the current permitted use of the site as a Farm Shop where sale of goods are restricted and it cannot be considered ancillary to these uses or to fall within the wider general use of the site as farm shop.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 12-03-2018 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, would not be lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reasons :

that the use of the section of the farm shop proposed would not accord with the current permitted use of the site as a Farm Shop where sale of goods are restricted and it cannot be considered ancillary to these uses.

FIRST SCHEDULE

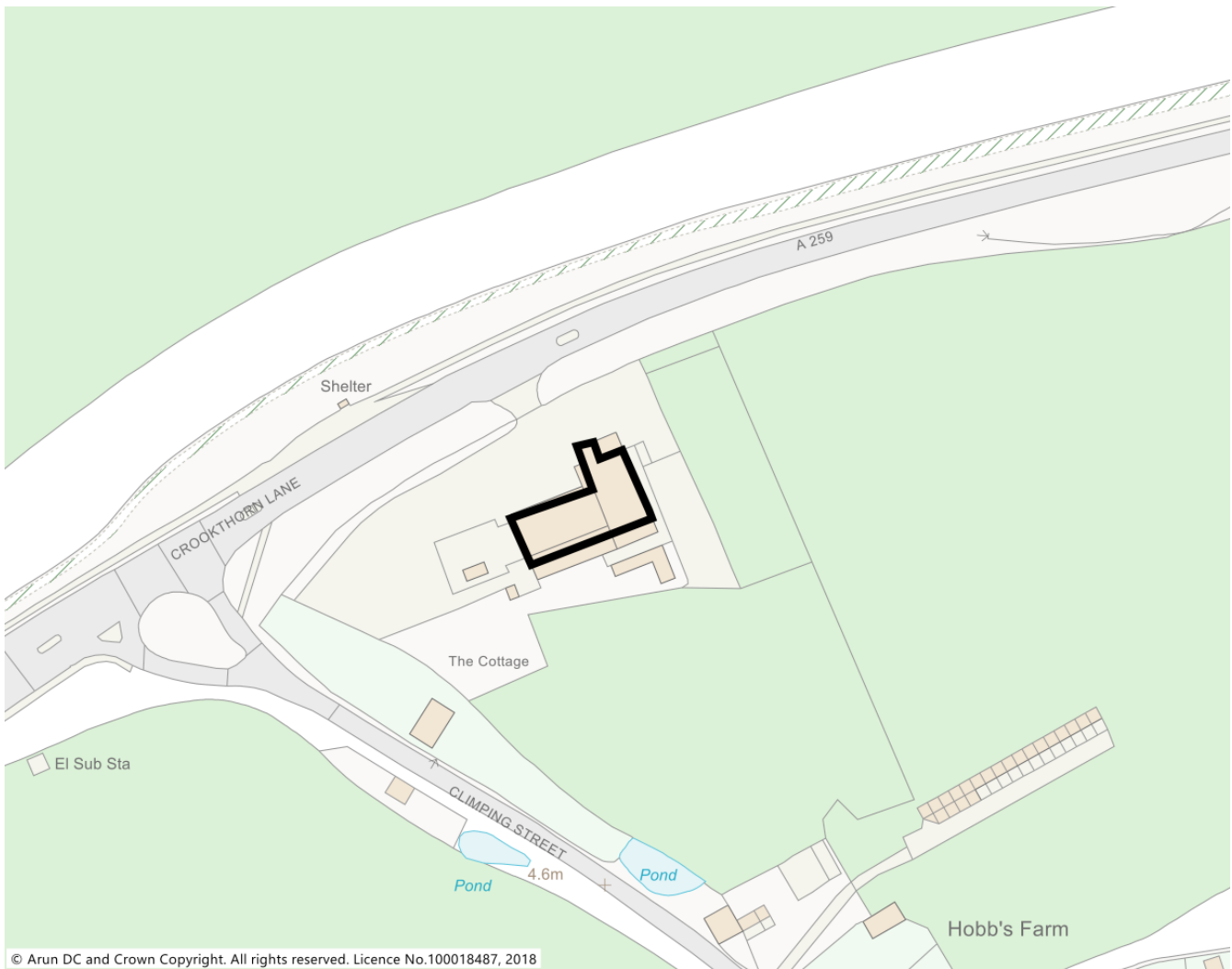
The development proposed is use of part of the premises as outlined on the submitted Location Plan and on Plan 2.

SECOND SCHEDULE

Bairds Farm Shop, Crookthorne Lane, Climping, BN17 5SN

EXTENT OF USE

The area of the site is approximately 14.5m by 4m and comprises the main part of the farm shop. The use proposed is a pet shop and aquatic shop.



Based on the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Arun District Council 100018487.