

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** EG/3/15/CLP**LOCATION:** Unit 7
R/O 45 Barnham Road
Barnham**PROPOSAL:** Application for a Certificate of Lawfulness for a proposed MOT testing centre to existing garage approved under EG/55/13.**DESCRIPTION OF APPLICATION**

As above.

DESCRIPTION OF SITE AND SURROUNDINGS

Topography - Predominantly flat.

Boundary Treatment - Surrounded by a mix of walls and fences.

Site Details - Existing garage site comprising of "Flint Garage" and "M. Triggs Car Trimmer". The majority of the site is owned by Flint Garage with only the 2 small buildings on the western side of the site owned by the other business. It is understood that the previous 1.5 storey building burnt down around 25 years ago and all that is currently left is the steel frame/struts. The site is accessed from Barnham Road via short spur to the east.

Character of the Locality - The site is in the centre of the Barnham shopping centre. It is located just north of Windmill Court (which overlooks it) and just south of commercial properties fronting onto Barnham Road. The site is close to Barnham station.

RELEVANT SITE HISTORY

EG/55/13/	Demolition of existing fire damaged unit and replace with new unit.	ApproveConditionally 19-12-2013
EG/8/49	Garage	Approve 05-07-1949
EG/8/49/A	Extension of workshop	Approve 02-05-1951
EG/8/49/B	Renewal of consent for garage	ApproveConditionally 21-07-1954
EG/8/49/C	Renewal of consent	Approve

21-10-1959

EG/91/74	Conversion of existing shops showroom and office to a single retail general store	Approve 04-12-1974
EG/81/76	Outline for single storey showroom offices and toilets and replacement of pumps	ApproveConditionally 08-12-1976

From a search of the relevant planning history, it would appear that the land and the existing two buildings (including the building subject of this application) was previously in the ownership of Colgrave's Garage which was part petrol station, part car sales and part motor repairs/service (source: Colgrave's Garage letter dated 14/03/63). Although there are no planning permissions which specify MOT use, it is understood that the MOT test was introduced in 1960 and that the buildings which were part of the garage site predated this time.

The building in question is described as a workshop on applications EG/91/74 & EG/81/76, and is shown (but not described as) on plans for EG/8/49 (which date from the period of 1949 to 1959). A plan on application EG/87/81 shows two buildings adjacent to M. Triggs (Car Trimmer) and these are said to be belonging to Keith Shelfer who does panel beating, chassis repairs, spraying & vehicle recovery.

Planning Ref EG/55/13/ granted consent for the replacement of an existing fire damaged workshop with a new unit to operate in conjunction with the existing MOT/car servicing building/use. However, no conditions were applied in respect of the MOT use and it is understood that VOSA will not grant an MOT licence without something in writing from the local planning authority which states clearly that the unit has an approved MOT use.

REPRESENTATIONS

Representations received:

None.

Comments on Representations received:

N/A.

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 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

In terms of evidence, the application is accompanied only by a copy of the decision and officers report for application EG/55/13. That report (which was also written by the writer of this) stated that: "It is understood that the new MOT bays in the building are required to service the existing needs of the business and not to expand/intensify it.". The description of that application did not however reference the MOT use and no conditions were applied in respect of this use either.

Notwithstanding, it is clear from the planning history that the previous building (replaced by EG/55/13) was part of the original Colgrave's Garage site which although had no specific MOT use permission, had predated the introduction of the MOT test and had provided a number of motor vehicle related services which would have been similar if not the same as those procedures carried out in an MOT test.

Anecdotal evidence from the applicant on the previous application suggested that the previous building was damaged by a fire 'around 25 years ago'. This would have put the fire in the late 1980's/early 1990's and as such, the MOT testing procedure would have been in existence for around 30 years. It is therefore considered that the building in question had more than likely previously been used to provide MOT tests or services similar to an MOT test. It is therefore recommended that this CLP be granted.

EG/55/13/ granted planning permission for the building at an existing garage site which would traditionally include MOT testing uses. The provision of MOT testing is not development requiring planning permission.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 18/02/15, 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 black on the plan attached to this certificate, was lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the reason that the building is part of a site with a longstanding planning history of car repair and MOT testing uses.

FIRST SCHEDULE

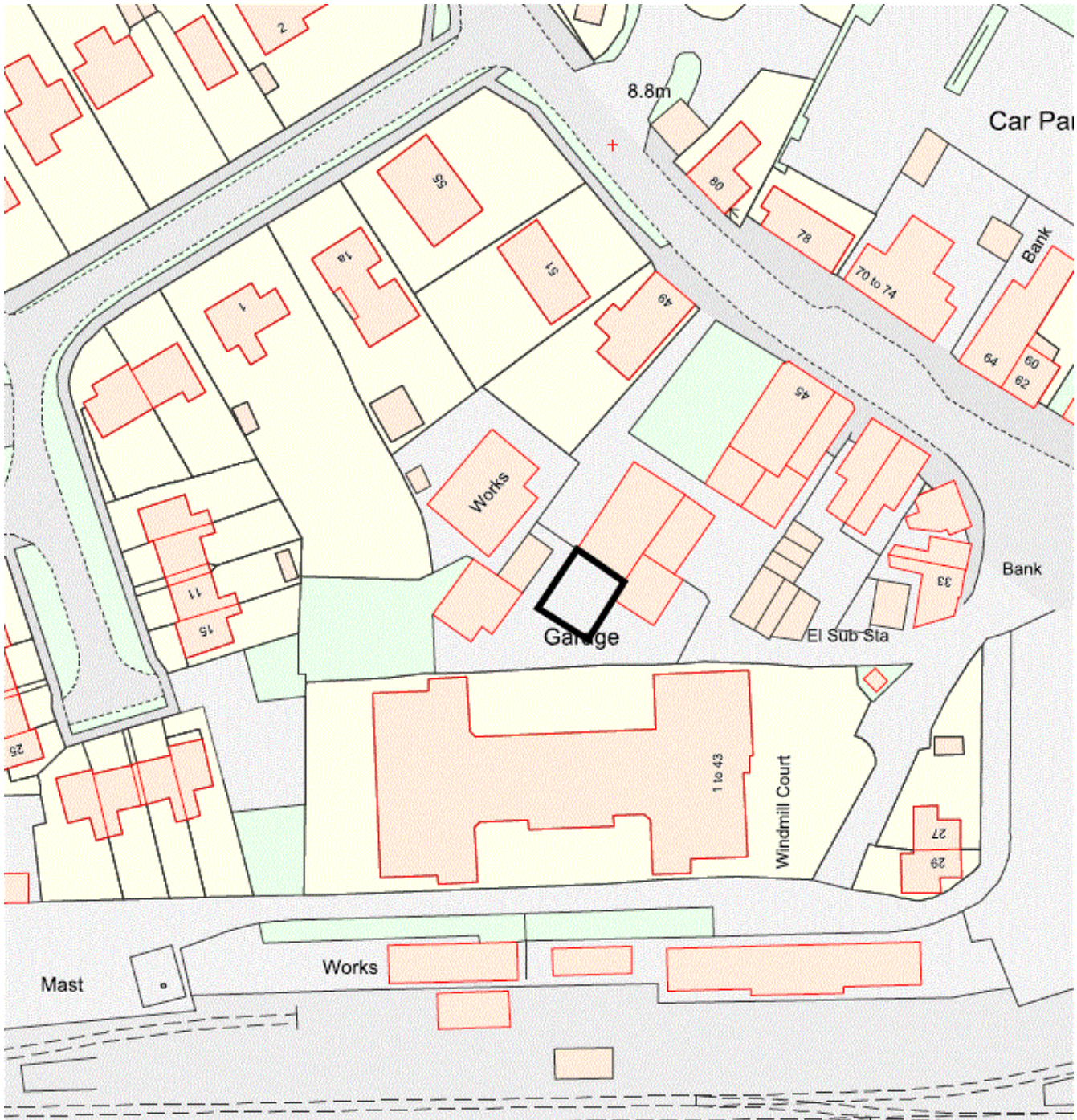
The use of the building known as Unit 7, Rear Of 45 Barnham Road for the purposes of car repair and MOT testing and consisting of two MOT testing bays.

SECOND SCHEDULE

Unit 7, Rear of 45 Barnham Road, Barnham, West Sussex, PO22 0ER.

EXTENT OF USE

The building in question is known as Unit 7, Rear Of 45 Barnham Road and is 10.5m deep, 9m wide and 6m tall (to the ridge).



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