

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

REF NO: EP/152/21/CLE

LOCATION: Cricket Pavilion
Sea Road
East Preston

PROPOSAL: Certificate of Lawful Development for the existing number of children to 26 per session in the Cricket Pavilion building and fenced area.

DESCRIPTION OF APPLICATION

The Certificate of Lawful Development seeks to change the existing number of children allowed from 16 to 26 per session in the Cricket Pavilion building and fenced area. The existing limitation of 16 children was put in place by condition 3 of application EP/38/96.

SITE AND SURROUNDINGS

The site is Cricket Pavilion on Warren Recreation Ground. The site is surrounded by residential dwellings.

RELEVANT SITE HISTORY

EP/38/96	Use of pavilion on part time basis for Playtime Playgroup Monday to Friday during school term time 9.00am to 4pm.	ApproveConditionally 07-08-96
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Condition 3 of EP/38/96 is relevant to this application.

REPRESENTATIONS

Representations Received:

East Preston Parish Council

No objection received from East Preston Parish Council.

No representation received from nearby occupiers.

Comments on Representations Received:

Comments noted.

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 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 change of use for this application requires 10 years of evidence.

CONCLUSION

The evidence submitted in support of the application consists of
- Two sworn statements.

It is clear from the evidence submitted that the evidence judged on a balance of probability is sufficient and is precise and unambiguous. The LPA has no evidence itself, nor from others, to contradict or otherwise make the applicants versions less than probable. There is therefore no good reason to refuse the application.

It is therefore recommended that the certificate is granted in accordance with the following terms.

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 property has been in use as a Cricket pavilion for up to 26 children for the period of at least 10 years.

FIRST SCHEDULE

The proposed use of the pavilion is on a part time basis for Playtime Playgroup Monday to Friday during school term time 9.00am to 4pm, accommodating up to 26 children.

SECOND SCHEDULE

East Preston Village Pre School, Cricket Pavilion, Sea Road, East Preston, BN16 1JP.

EXTENT OF USE

The existing use of the pavilion is on a part time basis for Playtime Playgroup Monday to Friday during school term time 9.00am to 4pm, accommodating up to 16 children.

