

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: EP/55/14/CLP

LOCATION: Middle Barn
The Street
East Preston

PROPOSAL: Application for a Certificate of Lawfulness for proposed partial removal of garden wall, gate and fence

DESCRIPTION OF APPLICATION

The proposal involves the removal of an existing section of flint wall, fencing and gate. The gap will remain open.

DESCRIPTION OF SITE AND SURROUNDINGS

The site comprises a terraced two-storey dwelling which is a Building of Special Character. There is a flint boundary wall along the majority of site fronting The Street measuring approximately 1m in height with hedging above and behind at approximately 2m in height.

RELEVANT SITE HISTORY

EP/143/13/	Provision of new vehicular access and driveway to eastern boundary of property	Withdrawn 22-01-2014
EP/23/14/CLP	Application for a Certificate of Lawfulness for proposed partial removal of garden wall, gate and fence	PP Required 18-03-2014

A previous planning application Ref EP/143/13/ for "Provision of new vehicular access and driveway to eastern boundary of property" was set to be refused but was withdrawn by the applicant on 22 January 2014.

A previous Certificate of Lawfulness for Proposed Use under reference EP/23/14/CLP required planning permission on account of proposing brick pillars above 1m adjacent to a highway. These have now been deleted in this application.

REPRESENTATIONS

Representations received:

Objection from East Preston Parish Council.

The Parish Council sees no difference between this application and previous application EP/23/14/CLP which Arun District Council required a full planning application. Therefore, previous objections to EP/143/13 are applied to this application.

The proposed breach will be within a particularly fine sweep of historic flint wall, one of the

longest such sweeps within East Preston. The Council recognises there is already a pedestrian breach of this wall, but that is of a much smaller scale than the breach proposed here. The proposed breach would be useless without a crossover. It would be naïve to think granting permission for EP/55/14/CLP will not lead to a further application for a crossover - thus leading to the same result as EP/143/13 had approval been given.

The proposed breach, although it is not possible to see this from the plans, is almost directly opposite the entrance to Manor Close. Once a crossover has been (subsequently) agreed, the Council would be concerned about traffic exiting into The Street which is a busy road and bus route.

Whilst not subject to this application, the Council would object to the further erosion of grass verge within the village proposed by this application. The property is located within Character Area Three in the East Preston Village Design Statement; within this area, verges and reminders of the old village along roads must be preserved.

Comments on Representations received:

This application differs to application EP/23/14/CLP in that one existing pillar to the entrance is now shown compared to one being proposed at 1.4m in height before. The erection of a brick pillar above 1m was found to require planning permission under Class B of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) Schedule 2.

This application is not judged on planning merits. Instead, it is determined solely on criteria set out in the General (Permitted Development) Order 1995 and its 2008 amendment to determine whether the proposed works are classified as Permitted Development.

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.

In this instance the proposed works will be assessed against one criteria contained within The Town and Country Planning (General Permitted Development) (England) Order 1995, Part 31 - Demolition of Buildings Class B which states:-

Any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure.

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSIONS

The Town and Country Planning (General Permitted Development) Order 1995 Schedule 2, Part 31 sets out conditions in which demolition works can be performed lawfully without the need to obtain planning permission. Class B states that any building operation consisting of the demolition of the whole or any part of any gate, fence, wall or other means of enclosure constitutes Permitted Development.

Town and Country Planning Act 1990 Section 196D sets out exceptions to Permitted Development but these relate to works in Conservation Areas only. The fence, wall and gate to be removed are not located within a Conservation Area. There are also restrictions imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 but, as neither the fence, wall and gate or the dwelling itself are listed, none of these restrictions are considered relevant.

It is therefore demonstrated that the proposed demolition works do not require planning permission in order to be undertaken.

It is therefore determined that the proposed works constitute Permitted Development and that a Certificate of Lawful Development can be issued for the works.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 6th May 2014 the operation 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 considered lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the reason that it constitutes Permitted Development under Part 31 of the General (Permitted Development) Order 1995.

FIRST SCHEDULE

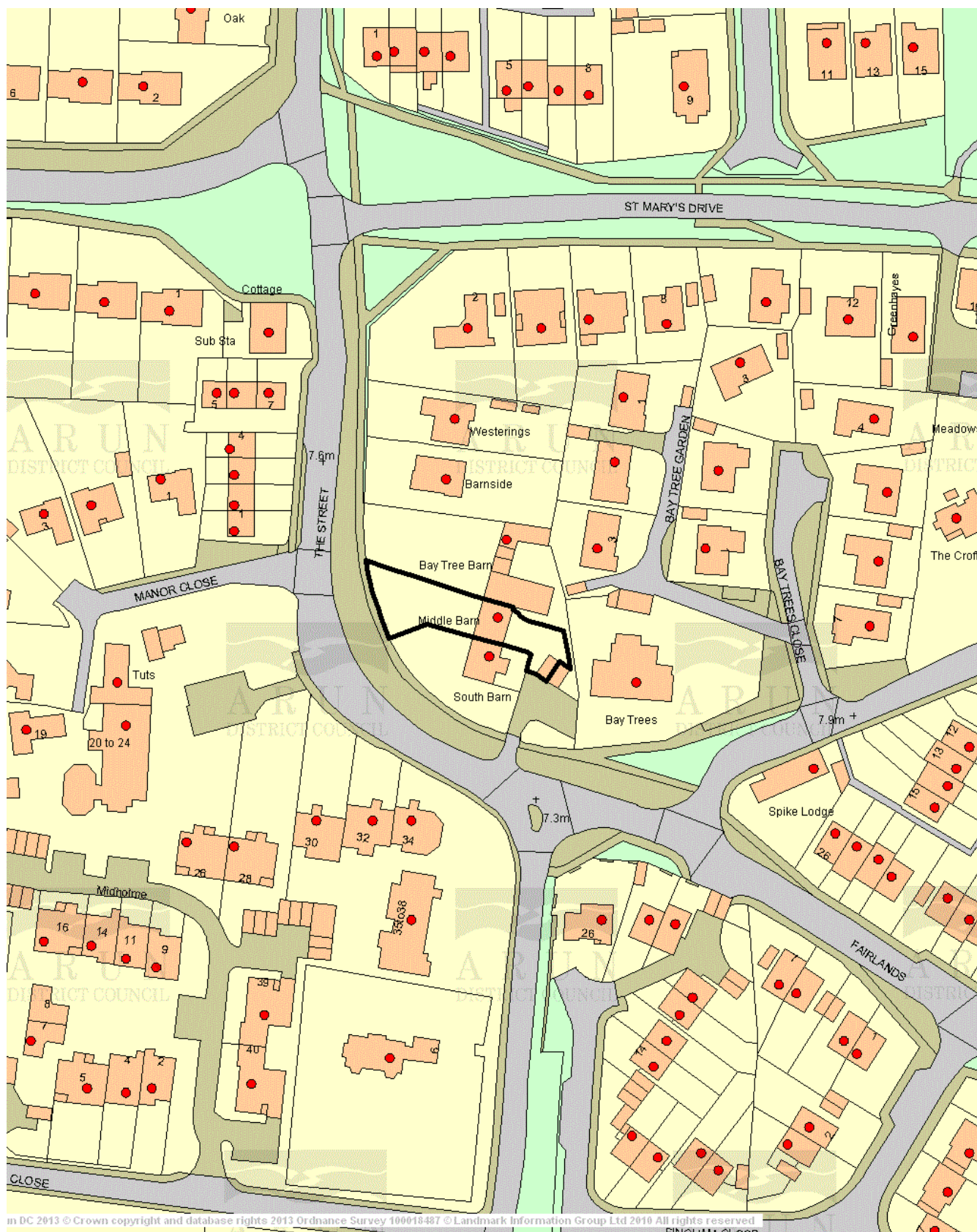
The gap formed by the proposed demolition measures approximately 1.7 metres in width.

SECOND SCHEDULE

Middle Barn, The Street, East Preston, West Sussex, BN16 1JD.

EXTENT OF USE

Removal of a gate and section of wall and fence on the western site boundary.



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