

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

REF NO: FG/139/21/CLE

LOCATION: The Ladydell site
Hangleton Lane
Ferring
BN12 6PP

PROPOSAL: Lawful development certificate for the existing use of unit being used as workshops and stores (Class B1, B2 and B8).

DESCRIPTION OF APPLICATION

The lock up garage was originally granted permission under FG/95/72 as a garage and petrol storage tank.

This application now wants to regularise the use of the garage in conjunction with B1 (business use, now use class E), B2 (general industrial) and B8 (storage and distribution) uses.

SITE AND SURROUNDINGS

The site, a converted flat roofed structure, is part of a larger building of commercial premises to the east of Hangleton Lane. The whole structure forms a 'U' shape around a central courtyard and there are various detached garages/stores running behind along the eastern boundary of the site. There is a lock-up garage to the north-eastern corner of the site which has a forecourt to the west running out to the road. It is surrounded by commercial premises and there are a few residential units (some converted at previous points in the past and others purpose built) scattered up Hangleton Lane.

The site falls outside of the Built up Area Boundary and is located in a semi rural location.

This application relates to the double lock-up garage to the north-eastern corner of the site.

RELEVANT SITE HISTORY

FG/140/21/CLE Lawful development certificate the existing use as a single residential unit.

FG/172/12/CLE Application for a Certificate of Lawfulness for an exsisting Approve
use as motorbike sales (B1 Business) and storage B8 05-03-13
(storage or distribution) and ancillary offices.

FG/98/12/CLE	Application for a Certificate of Lawfulness for an Existing use as a joinery workshop with ancillary buildings B1 (Light Industry) and B8 (Storage)	Inc Docs Ret'nd 17-09-12
FG/49/00/	Demolition of existing storage units & erection of new storage/workshop units (Departure from the Development plan)	Refused 05-07-00
FG/183/80	Change Of Use For Storage Of Imported Pets Including Ancillary Office Accommodation	ApproveConditionally 18-02-81
FG/9/76	Change Of Use Of Builders Yard And Workshop To Storage Of Furniture And Removal Vans Etc	Refused 12-03-76
FG/44/75	Change Of Use Of Buildings And Joinery Workshop Buildings To Class Iii Light Engineering Work	Refused 06-06-75 Appeal: Dismissed 08-12-75
FG/79/75	Use Of Part Of Premises For Storage Of Scaffolding - Remainder Of Premises To Remain In Present Use	Refused 12-09-75
FG/95/72	Garage And Petrol Storage Tank	ApproveConditionally 18-08-72
FG/98/70	Change Of Use Of Garage And Stores To Building Managers General Office With Toilets & New Access To Rear Land	ApproveConditionally 09-10-70
FG/61/69	Builders And Joinery Workshop And Ancillary Buildings	ApproveConditionally 10-10-69

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REPRESENTATIONS

Representations Received:

Ferring Parish Council - Objection

- Evidence for light commercial use via previous permissions.
- Previous consents specific uses under B1 or B8.
- No evidence for B2 activity on site.
- B2 unacceptable in this location due to residential units, narrow access which it use as access to National Trust Land with its associated leisure usage.
- Increase in noise and air pollution.

Ferring Conservation Group - Objection

- Application seeks to regularise uses that are contrary to those allowed.
- Uses are not in character with for rural lane leading to Highdown and National Park.

Comments on Representations Received:

Noted.

CONSULTATIONS**Consultations Responses Received:****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.

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"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."

Paragraph 006 (Reference ID: 17c-006-20140306) of the Planning Practice Guidance (PPG) states that:

"The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's

version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."

Paragraph 009 (Reference ID: 17c-009-20140306) of the PPG points out that:

"A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process. In determining an application for a prospective development under section 192 a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"

Section S171(1)-(3) and S191 TCPA 1990. The relevant time period is 23rd August 2011 to 23rd August 2021 i.e. 10 years to the date of the application.

CONCLUSION

This application aims to regularise the B1, B2 and B8 uses on site.

It is noted that under FG/172/12/CLE, B1 and B8 uses were granted approval on this mixed use site. The site plan and evidence submitted as part of this application related to all the buildings within the site, not just the buildings under occupancy by The Scooter Warehouse. Satisfied that the site already benefits from B1 and B8 uses this application therefore specifically relates to the double lock up garage to the north east of the site and attempts to regularise the B2 use being carried on.

Evidence in support of its use under B2 (General Industrial) consists of:

- Application documents submitted in relation to FG/172/12/CLE, detailing use of the garage and hardstanding to front during the period 1998(approx.) -2008 by NS Marine. Evidence to support this claim takes the form of The Statement of History prepare by the agents, financial records detailing rental payments made to Ladydell Livestock Importers Ltd. Payments appear within the timeframe of 2002 - 2006. N S Marine used the site for the purposes of repair and storage of marine engines, this would fall under use class B2.
- The dates of occupation set out by the applicant gives the details of Graham Poulter Car Repairs as the occupant during the years of 2008-2012. Car repairs would fall under a Class B2 use.
- Emails dated 3rd November 2020 and 14th December 2020, forming part of the enforcement case onsite. These emails confirm that the company in occupation of the garage between 2012-2019 ARC Recycling used the site for clearance, building materials and scrap metal recycling, with the yard to the front used for vehicle storage. Scrap metal recycling falls under B2 usage. Furthermore, it was confirmed by the agent that the site is listed under the Valuation Office Agency as workshops, factories and warehouses.
- Plan MC002, detailing occupiers as of August 2020. Ben Hopper currently occupies the garage, his trade is the repair of motor vehicles. This would fall into a B2 use class.

It is clear from the evidence submitted and the time line above, 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

APPROVE

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 site has been used for car repairs and scrap metal recycling for a period of 10 years or more.

FIRST SCHEDULE

Use of the Lock-up garage in connection with a B2 use class.

SECOND SCHEDULE

The Ladydell Site, Hangleton Lane, Ferring

EXTENT OF USE

Use of the site, specifically the lock-up garage located within the north-eastern corner of the site and fourcourt to the west for the purposes of car repairs, scrap metal recycling both falling under the B2 use class, along with the B1 and B8 uses granted under FG/172/12/CLE.