

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

REF NO: LU/178/21/CLP

LOCATION: 126 Manning Road
Littlehampton
BN17 7HX

PROPOSAL: Lawful development certificate for the proposed change of use of existing garage to workshop.

DESCRIPTION OF APPLICATION

This application seeks the change of use of a residential garage use class C3 to a light industrial use class E (formally Use Class B1), to allow a trellis company to operate.

RELEVANT SITE HISTORY

REPRESENTATIONS

Representations Received:

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.

In this instance the proposed works will be assessed against the Town and Country Planning Act 1990 Part 3 Section 55, the meaning of development.

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.

CONCLUSION

It is considered that the chance of use will fall under Town and Country Planning 1990 Part 3 Section 5.

55 Meaning of "development" and "new development".

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(1A) For the purposes of this Act " building operations " includes-

(a) demolition of buildings;

(b) rebuilding;

(c) structural alterations of or additions to buildings; and

(d) other operations normally undertaken by a person carrying on business as a builder.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land-

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which-

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building, and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

(b) the carrying out on land within the boundaries of a road by a highway authority of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment];

(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

(g) the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.

(2A) The Secretary of State may in a development order specify any circumstances or description of circumstances in which subsection (2) does not apply to operations mentioned in paragraph (a) of that subsection which have the effect of increasing the gross floor space of the building by such amount or percentage amount as is so specified.

(2B) The development order may make different provision for different purposes.

(3) For the avoidance of doubt it is hereby declared that for the purposes of this section-

(a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so

used;

(b)the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if-

(i)the superficial area of the deposit is extended, or

(ii)the height of the deposit is extended and exceeds the level of the land adjoining the site.

(4)For the purposes of this Act mining operations include-

(a)the removal of material of any description-

(i)from a mineral-working deposit;

(ii)from a deposit of pulverised fuel ash or other furnace ash or clinker; or

(iii)from a deposit of iron, steel or other metallic slags; and

(b)the extraction of minerals from a disused railway embankment.(4A)Where the placing or assembly of any tank in any part of any inland waters for the purpose of fish farming there would not, apart from this subsection, involve development of the land below, this Act shall have effect as if the tank resulted from carrying out engineering operations over that land; and in this subsection-

" fish farming " means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean and mollusc);

" inland waters " means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows; and

" tank " includes any cage and any other structure for use in fish farming.

(5)Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

The property known as 126 Manning Road is a semi detached property and is not listed or within a conservation area.

The proposed change of use conflicts with relevant sections (2)(d)(f) and is considered a material change of use and as such does require the submission of an application for full planning permission.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 18th June 2021 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 not lawful within the meaning of section 55 of the Town & Country Planning Act 1990 by reason of conflict with the relevant criteria within Part 3 Schedule 55 of the Town and Country Planning Act 1990.

FIRST SCHEDULE

The proposed change of use is considered to fall under Part 3 Section 55 of the Town and Country Planning Act 1990

The development was hereby refused under the following plans;

- Location Plan
- Block Plan
- Photos

SECOND SCHEDULE

126 Manning Road, Littlehampton

EXTENT OF USE

Change of use of garage under use class C3 to a light industrial unit under Use class E (formally use class B1).

LU/178/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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