

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

REF NO: LU/187/19/CLE

LOCATION: Castlevue Storage
Castlevue Storage, Old Mead Road
Littlehampton
BN17 7PU

PROPOSAL: Application for a lawful development certificate following grant of planning permission LU/131/18/PL for an existing development - confirmation that permission has been lawfully commenced

DESCRIPTION OF APPLICATION

The application seeks to confirm that planning permission LU/131/18/PL has been lawfully commenced.

SITE AND SURROUNDINGS

The application site is situated at the western end of Old Mead Road. The site is served by a private access drive from Old Mead Road with entrance gates into the south east corner of the holding.

RELEVANT SITE HISTORY

LU/348/18/DOC	Approval of details reserved by condition imposed under LU/427/17/PL relating to condition No 3 materials and finishes for external walls.	DOC Approved 23-01-19
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LU/167/19/DOC	Approval of details reserved by condition imposed under ref LU/131/18/PL relating to Condition No 3 - proposed surface water drainage scheme.	DOC Approved 03-06-19
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Relevant planning history noted.

REPRESENTATIONS

Representations Received:

Littlehampton Town Council

No objection.
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.

CONCLUSION

A condition relating to drainage at the site was discharged under LU/167/19/DOC and has subsequently been installed. A certificate is now sought which seeks formal confirmation that the development has been commenced.

Photographs clearly show the installation of large scale drainage equipment to serve the development. These are considered acceptable to demonstrate commencement of the development.

The evidence submitted is considered to be sufficient to demonstrate commencement of the development approved under reference LU/131/18/PL for the purposes of 'Section 56' of the Town and Country Planning Act 1990 (as amended), which states;

1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated -

- (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
- (b) if the development consists of a change in use, at the time when the new use is instituted;
- (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).

(2) For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

(3) The provisions referred to in subsection (2) are sections 85(2), 86(6), 87(4), 91, 92 and 94.

(4) In subsection (2) "material operation" means -

- (a) any work of construction in the course of the erection of a building; (aa) any work of demolition of a building;

(5) In subsection (4)(e) "material development" means any development other than -

- (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;
- (b) development of a class specified in paragraph 1 or 2 of Schedule 3;
- (c) development of any class prescribed for the purposes of this subsection.

As such, the certificate is recommended for approval.

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 the drainage details necessary to serve the development have been constructed and planning permission LU/131/18/PL has lawfully been implemented.

FIRST SCHEDULE

The provision of development comprising the erection of No.2 buildings for the storage of motorhomes/caravans and self storage.

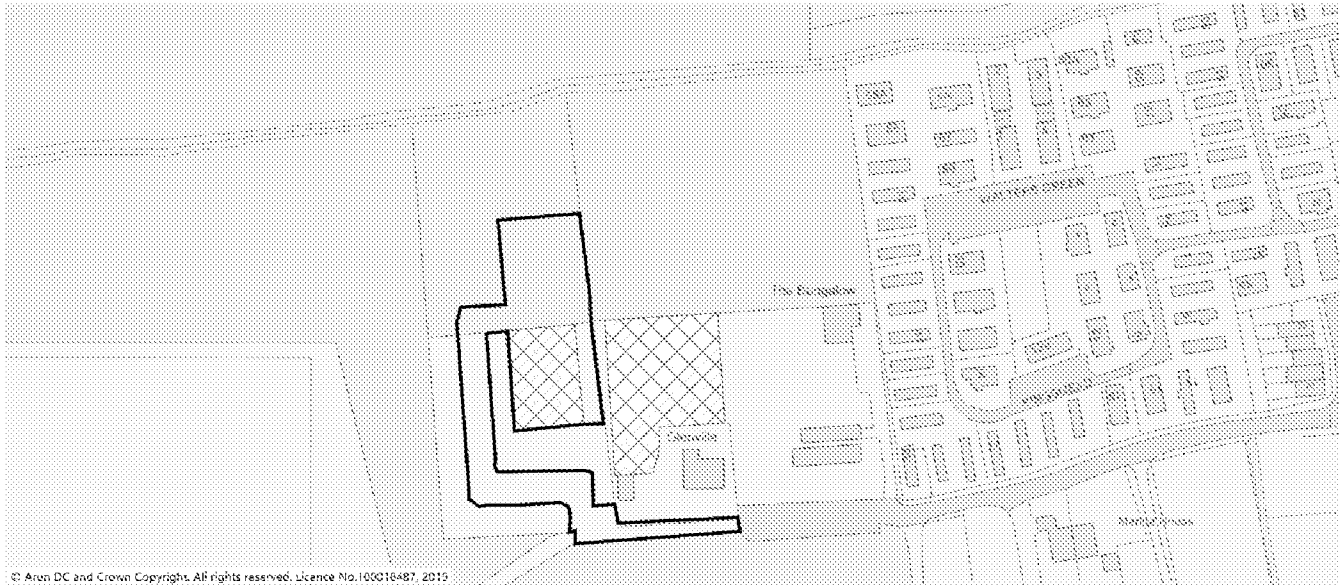
SECOND SCHEDULE

Castleview Storage, Old Mead Road, Littlehampton, West Sussex, BN17 7PU.

EXTENT OF USE

Implementation of planning permission LU/131/18/PL.

LU/187/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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