

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/21/20/CLE

LOCATION: Land at Littlehampton Marina
Ferry Road
Littlehampton
BN17 5DS

PROPOSAL: Lawful development certificate for the existing use of land as residential caravan site (Parcel C).

DESCRIPTION OF APPLICATION

The application seeks a certificate of lawfulness for the use of a parcel of land for the stationing of 14 caravans which may be occupied residentially throughout year.

The evidence submitted by the applicant includes the following:

- Plan no. LMRSC/1b - Location Plan
- Plan no. LMRSC/2a - Layout Plan
- Declaration of Mr. David Finnermore, Managing Director and Principal Owner of the Applicant Company
- Copy Invoices 2012 - Current Day
- Assured Shorthold Tenancy Agreement

SITE AND SURROUNDINGS

The site is a parcel of land on the Littlehampton Marina which has 14 static caravans stationed on it. The Littlehampton Marina is mixed in use with commercial uses including offices, light industry and storage uses alongside boat storage on the river and banks and the stationing of static caravans.

RELEVANT SITE HISTORY

None relevant to this site.

REPRESENTATIONS

Representations Received:

Littlehampton Town Council

No objection. No legal reason to object.

Comments on Representations Received:

Noted.

CONSULTATIONS

Consultations Responses Received:

None received.

Comments on Consultation Responses:

N/a

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 relevant time period is Jan 2016 to Jan 2020 i.e. 4 years to the date of the application.

CONCLUSION

From the evidence submitted there is no other evidence to contradict or otherwise make the applicant's version less than probable.

The 14 static caravans have been let out on assured shorthold tenancy agreement provided by the applicant which made no reference to the use of the caravans being restricted to holiday use only. As evidenced by the copy invoices this letting has taken place for a continuous period over the past four years.

Under s171B(2) of the 1990 Town and Country Planning Act 1990 as amended it clearly states that where the breach of planning control consists of the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

The evidence demonstrates that the land has been in continuous use for the stationing of caravans occupied residentially throughout year for a period in excess of four years up to and until the time the application was submitted.

The evidence provided is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

There is therefore no good reason to refuse the application.

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 land has been in use for the stationing of caravans occupied residentially throughout year for a continuous period of 4 years.

FIRST SCHEDULE

Use of the land for the stationing of 14 caravans occupied residentially throughout year as indicated on the following plan:

Dwg.no. LMRSC/2a received on 27-01-2020.

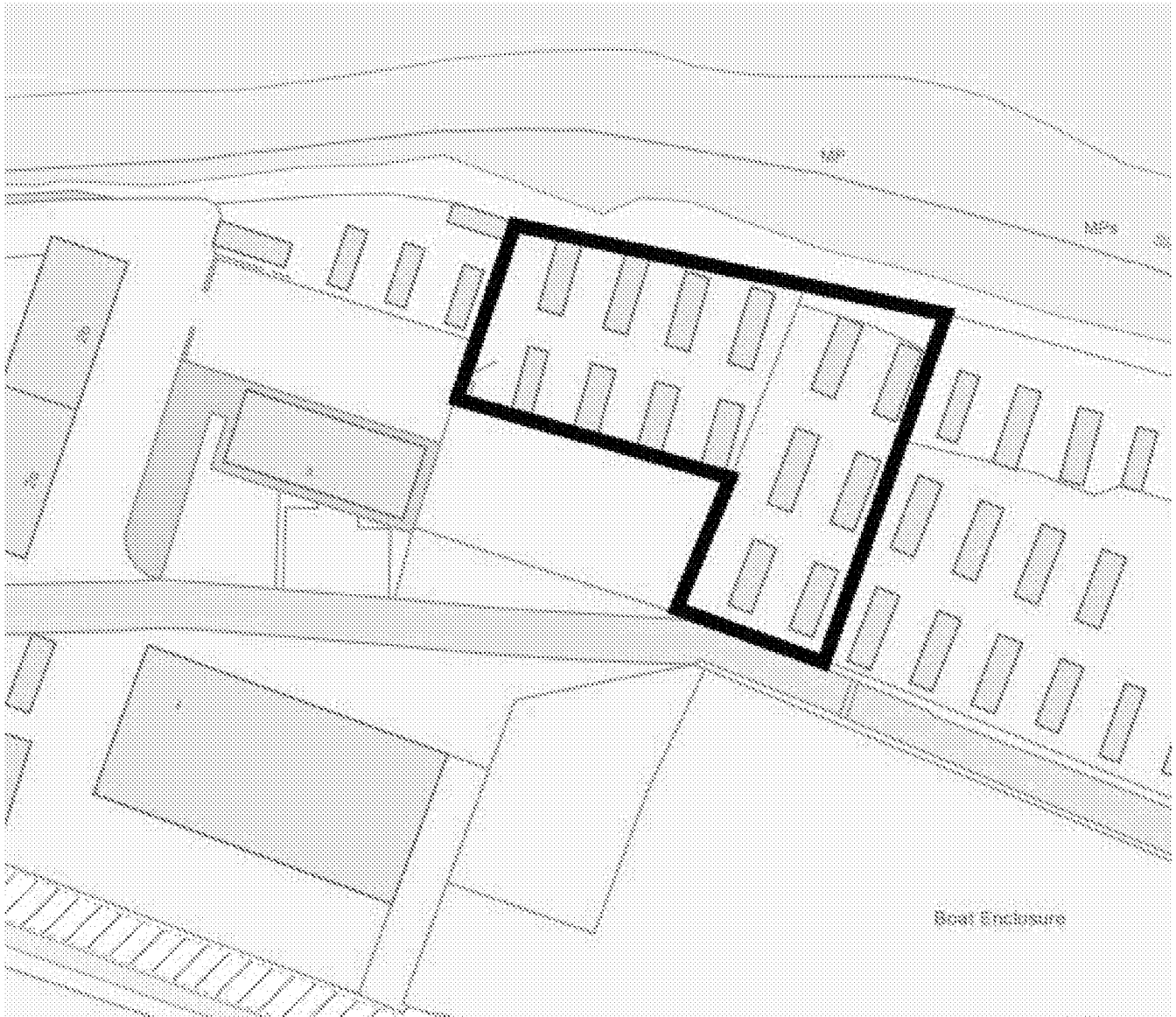
SECOND SCHEDULE

Land at Littlehampton Marina, Ferry Road, Littlehampton BN17 5DS

EXTENT OF USE

Use of the land for the stationing of 14 caravans occupied residentially throughout year.

LU/21/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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