

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/326/19/CLE

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

PROPOSAL: Lawful development certificate for the existing use of land for stationing of storage containers.

DESCRIPTION OF APPLICATION

The application seeks a certificate of lawfulness for the existing use of land for stationing of storage containers.

The evidence submitted by the applicant includes the following:

- Statutory Declaration of Mr. David Finnamore, Managing Director and Principal Owner of the Applicant Company
- Aerial Photographs from Google Earth taken in 2007, 2010 and 2018.
- Site plan dwg.no. LMSC/1
- Photographs of the site.

SITE AND SURROUNDINGS

The site is currently occupied by storage containers which are used as storage units by member of the public who rent the space from the applicants. The site is fenced in by palissade fencing.

RELEVANT SITE HISTORY

There is no planning history that directly relates to the use of this site for the stationing of storage containers.

REPRESENTATIONS

Representations Received:

Littlehampton Town Council

Littlehampton Town Council - No objection.

Comments on Representations Received:

Noted.

CONSULTATIONS

Consultations Responses Received:

ADC legal - The test included in Paragraph 006 of the Planning Policy Guidance need be applied.

Comments on Consultation Responses:

Noted.

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 October 2009 to October 2019 i.e. 10 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 evidence demonstrates that the land has been in continuous use for the stationing of storage containers for a period in excess of ten 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 used for the stationing of storage containers for a continuous period of 10 years.

FIRST SCHEDULE

Use of the site for the stationing of storage containers as indicated on the plan.

- Site plan dwg.no. LMSC/1
- Appendix D of submitted Planning Statement dated 25th October 2019.

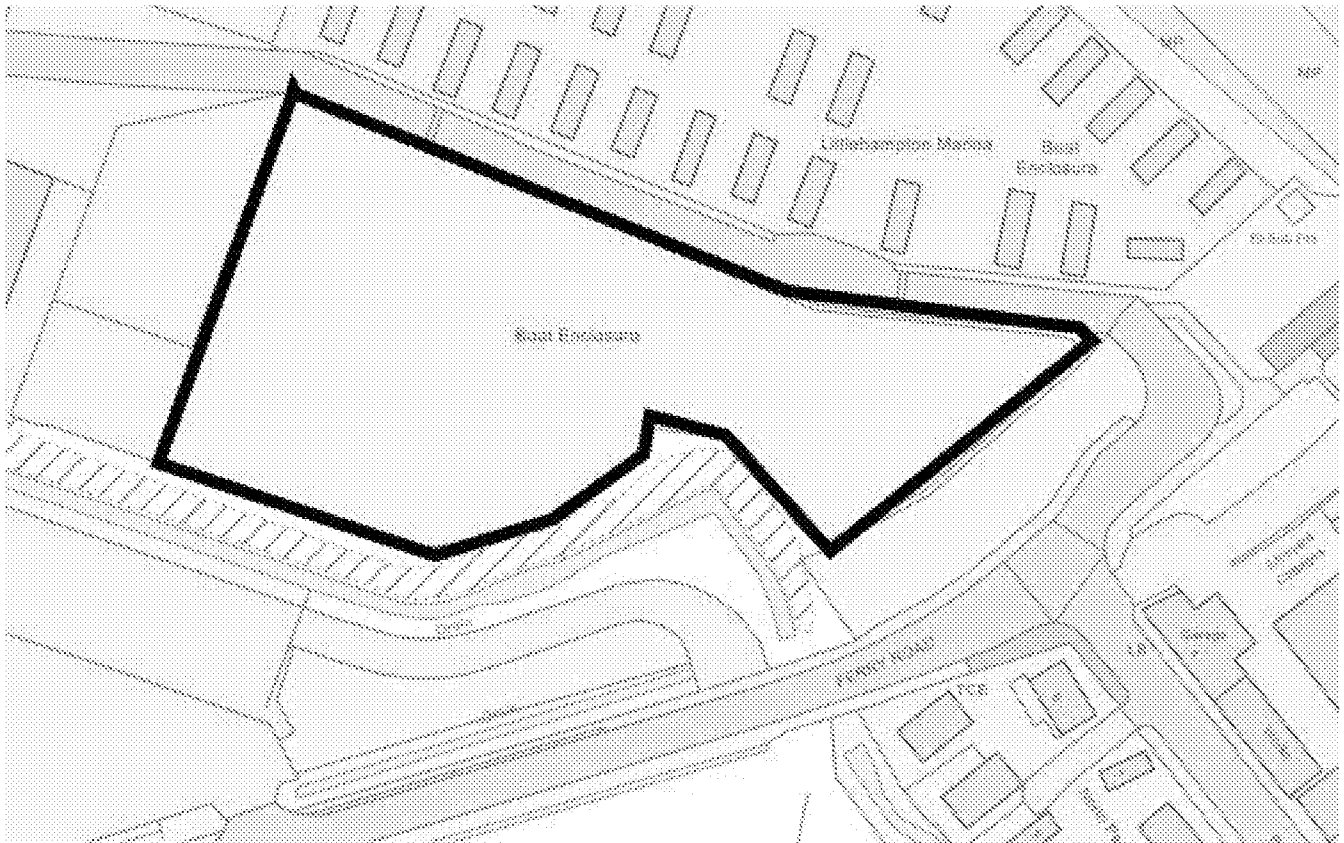
SECOND SCHEDULE

Land used for stationing of storage containers, Littlehampton Marina, Ferry Road, Littlehampton, West Sussex, BN17 5DS.

EXTENT OF USE

Use of the site for the stationing of storage containers as depicted in Appendix D of submitted Planning Statement dated 25th October 2019.

LU/326/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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