

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/333/20/CLE

LOCATION: Units 2b, 2c & 2d
Littlehampton Marina
Ferry Road
Littlehampton
BN17 5DS

PROPOSAL: Lawful development certificate for the existing use as B1 (a), (b) & (c) & B8 without compliance with condition 2 of LU/455/07.

DESCRIPTION OF APPLICATION

The application is to remove the stipulations of condition 2 of LU/455/07 which states that

The industrial floor space of the proposed units shall be limited to marine industrial uses and to no other purpose within classes B2 or B8 of the Town and Country Planning (Use Classes) Order 1987.

Reason: In order to conform to Arun District Local Plan policies Site 9 and Policy Area 8..

The application is for a B1/B8 use without adherence to that condition as proved by use of the properties for a period of more than 10 years

SITE AND SURROUNDINGS

Three light industrial units on an industrial estate in Littlehampton.

RELEVANT SITE HISTORY

REPRESENTATIONS

Representations Received:

None received.

Comments on Representations Received:

N/a.

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 Dec 2010 to Dec 2020 i.e. 10 years to the date of the application.

In this instance the proposed works will be assessed against condition 2 of LU/455/07 to ascertain whether or not the condition has been complied with or as a result of the use of the properties the condition no longer applies.

CONCLUSION

The evidence produced are in the form of three affidavits. 1 is from the landlord who attests that the units have been let out without adherence to condition 2 and two further affidavits from tenants of units 2b and units 2c & 2d.

Units 2c & 2d have clearly been let out for non marine purposes for the past 10 years. The affidavit for unit 2b describes letting out from 2010 to 2013 again for non marine purposes.

Estate agents details have also been included which have no stipulation for marine purposes only.

On the balance of probabilities it would appear likely that the use of the premises for non marine purposes has been continuous for the last 10 years.

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 property had been in use for B1/B8 purposes unrelated to marine purposes for a continuous period of 10 years.

FIRST SCHEDULE

B1/B8 use without compliance to condition 2 of LU/455/07

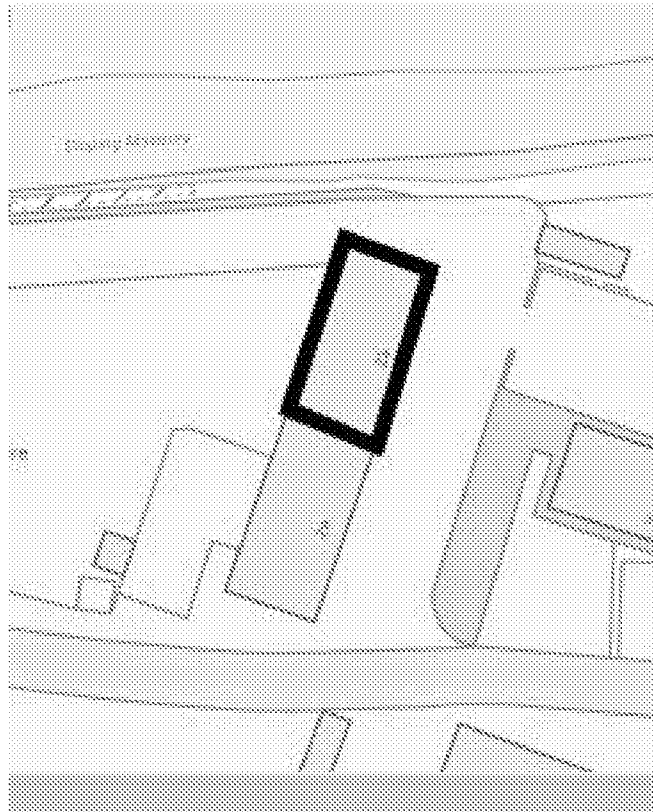
SECOND SCHEDULE

Units 2b, 2c and 2d, Littlehampton Marina, Ferry Road, Littlehampton, West Sussex, BN17 5DS

EXTENT OF USE

B1/B8 use without compliance to condition 2 of LU/455/07

LU/333/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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