

Ronnie McGregor

From: Amanda Scholes on behalf of Planning.Responses
Sent: 27 August 2019 09:39
To: Planning Scanning
Subject: FW:
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From: Zac Denton
Sent: 27 August 2019 08:13
To: Planning.Responses <Planning.Responses@arun.gov.uk>
Subject:

Legal response to M/51/19/CLE

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Please note this information is given without prejudice and represents the informal view of the officer and not an official opinion of Arun District Council.

1. I am asked to advise on an application for CLEUD in relation to “Gandarshe”, Manor Way, Elmer, Bognor Regis PO22 6LA (“the Property”)

BACKGROUND

2. On 3rd June, 2019 the Council received an application for a CLEUD in respect of the Property for use of the land to the rear of the Property as a garden. The application was given reference M/51/19/CLE and was not validated until 21st June 2019.

3. In support of the application I have seen the following

a) a location plan;

b) a “statement” consisting of 3 paragraphs and 3 photographs. The statement claims that the “area to the rear of the house of Sea Song has been maintained by the previous owners for over 20 years. They used it to provide privacy and security for the pool in their garden.

I have had to remove the greenery as it was attracting bees and I suffer from anaphylactic shock.

I have erected a picket fence – the same as my neighbours 3 doors down, to ensure that there is some security and that children and dogs cannot run out.”

The photographs show before and after the clearing of the greenery and a fence 3 doors away.

c) Land registry titles and plans for SX6204 – (Elmer Sands Holiday Camp) and WSX86604 (the Property);

d) Title WSX86604 shows the Proprietor to be Oberholzer Properties Limited of South Lodge, South Avenue, Hurstpierpoint, Hassocks BN6 9QB, a company of which the applicant is the sole director;

e) the application form.

4. The Council has received a number of objections to the application which include objections on the following grounds:

a) the land is not owner by the applicant;

b) the area was not enclosed and maintained;

c) the greenery was vegetated shingle.

5. The applicant has not submitted a statutory declaration and the “statement” is of limited value as the two before and after photographs are clearly both recent and do not support the claim that the area was garden for a period of 10 years prior to 3rd June 2019.

6. The applicant has provided no statement or supporting evidence from the previous owner/occupier to support the application.

7. The application form, at section 7 gives a date of 8th April 2019 as the date when the works were completed, which is clearly less than 10 years ago.

8. The application form, at section 10, states that the applicant is the owner of the land, a fact that is disputed by one of the objectors, who claims to be owner of the area of land on the sea shore immediately above the mean high water mark

9. I am of the opinion that the photograph showing 'before' shows vegetation that is more consistent with the description of the greenery as vegetated shingle rather than a cultivated, enclosed garden.

10. For the reasons set out above I am of the opinion that the applicant has failed to show that the land has been used as a garden, rather than beach or some other use for a period of at least 10 years prior to 3rd June 2019 and, therefore, the application should be refused.

Jeremy Cook

Barrister

21st August 2019