
From: Robert Tutton <roberttutton@msn.com>
Sent: 17 August 2020 12:45
To: TeamE3
Cc: Grant Atkinson
Subject: Appeals by Grant Atkinson - CLEUD Application - Land to rear of 5 Hillside, Kitnocks Hill, Curdridge, Winchester, SO32 2HJ - PP-08917023
Attachments: ApplicationForm.pdf; Location Plan.pdf; Planning Statement.pdf

Dear Sasha Coke

This is the CLEUD application that was made to Winchester City Council via the planning Portal on 6th August, to which reference is made in paragraph 10 of the 'Comments' submission re the appeals by Grant Atkinson.

Kind regards,

Robert Tutton
Director

Robert Tutton Town Planning Consultants Ltd
23 Romsey Avenue, Fareham, Hampshire, PO16 9TR
T: 01329 825985 F: 01329 230175 E: roberttutton@msn.com
W: www.planningfareham.co.uk

From: Niall Tutton <nialltutton@msn.com>
Sent: 06 August 2020 11:53
To: Grant Atkinson [REDACTED]
Cc: Robert Tutton <roberttutton@msn.com>
Subject: CLUED Application - Land to rear of 5 Hillside, Kitnocks Hill, Curdridge, Winchester, SO32 2HJ - PP-08917023

I am pleased to enclose a copy of your CLUED application (PP-08917023) re. 5 Hillside that was submitted to Winchester City Council (via the Planning Portal) earlier today.

Kind regards,

Niall

Niall Tutton BSc(Hons) MA
Planner

Robert Tutton Town Planning Consultants Ltd
293 Havant Road, Farlington, Portsmouth, Hampshire, PO6 1DD
T: 07814 729743 F: 01329 230175 E: nialltutton@msn.com
W: www.planningfareham.co.uk

Application for a Lawful Development Certificate for an Existing use or operation or activity including those in breach of a planning condition.

Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991.

Town and Country Planning (Development Management Procedure) (England) Order 2015

Publication of applications on planning authority websites.

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

1. Site Address

Number

Suffix

Property name

Address line 1

Address line 2

Address line 3

Town/city

Postcode

Description of site location must be completed if postcode is not known:

Easting (x)

Northing (y)

Description

2. Applicant Details

Title

First name

Surname

Company name

Address line 1

Address line 2

Address line 3

2. Applicant Details

Town/city	Curdridge
Country	
Postcode	SO32 2HJ

Are you an agent acting on behalf of the applicant?

Yes No

Primary number	
Secondary number	
Fax number	
Email address	

3. Agent Details

Title	Mr
First name	Robert
Surname	Tutton
Company name	Robert Tutton Town Planning Consultants Ltd
Address line 1	23 Romsey Avenue
Address line 2	
Address line 3	
Town/city	Fareham
Country	United Kingdom
Postcode	PO16 9TR
Primary number	01329825985
Secondary number	
Fax number	
Email	roberttutton@msn.com

4. Description of Use, Building Works or Activity

Please indicate why you are applying for a lawful development certificate

- An existing use
 Existing building works
 An existing use, building work or activity in breach of a condition

Being a use, building works or activity which is still going on at the date of this application

If Yes, to either 'an existing use' or 'an existing use in breach of a condition', please state which one of the Use Classes of the Town and Country Planning (Use Classes) Order 1987 (as amended) the use relates to

Use Classes	Other
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Other

Residential garden

5. Description of Existing Use, Building Works or Activity

Please fully describe each existing use, building works or activity for which you want the lawful development certificate. Where appropriate, show to which part of the land each use, building works or activity relates

Continued use of land as residential garden.

6. Grounds for application of a Lawful Development Certificate

Under what grounds is the certificate being sought

- The use began more than 10 years before the date of this application
- The use, building works or activity in breach of condition began more than 10 years before the date of this application
- The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years
- The building works (for instance, building or engineering works) were substantially completed more than four years before the date of this application.
- The use as a single dwelling house began more than four years before the date of this application
- Other - please specify (this might include claims that the change of use or building work was not development, or that it benefited from planning permission granted under the Act or by the General Permitted Development Order).

Is the certificate being sought for a use, operation, or activity in breach of a condition or limitation? Yes No

Please state why a Lawful Development Certificate should be granted

The use began more than 10 years before the date of this application.

7. Information in support of a Lawful Development Certificate

When was the use or activity begun, or the building works substantially completed (date must be pre-application submission)?

14/07/2010

In the case of an existing use or activity in breach of conditions has there been any interruption? Yes No

In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought? Yes No

Residential Information

Does the application for a certificate relate to a residential use where the number of residential units has changed? Yes No

8. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land? Yes No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

- The agent
- The applicant
- Other person

9. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application? Yes No

10. Interest in the Land

Please state the applicant's interest in the land

- Owner
- Lessee
- Occupier
- Other

11. Authority Employee/Member

With respect to the Authority, is the applicant and/or agent one of the following:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

It is an important principle of decision-making that the process is open and transparent.

Yes No

For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the Local Planning Authority.

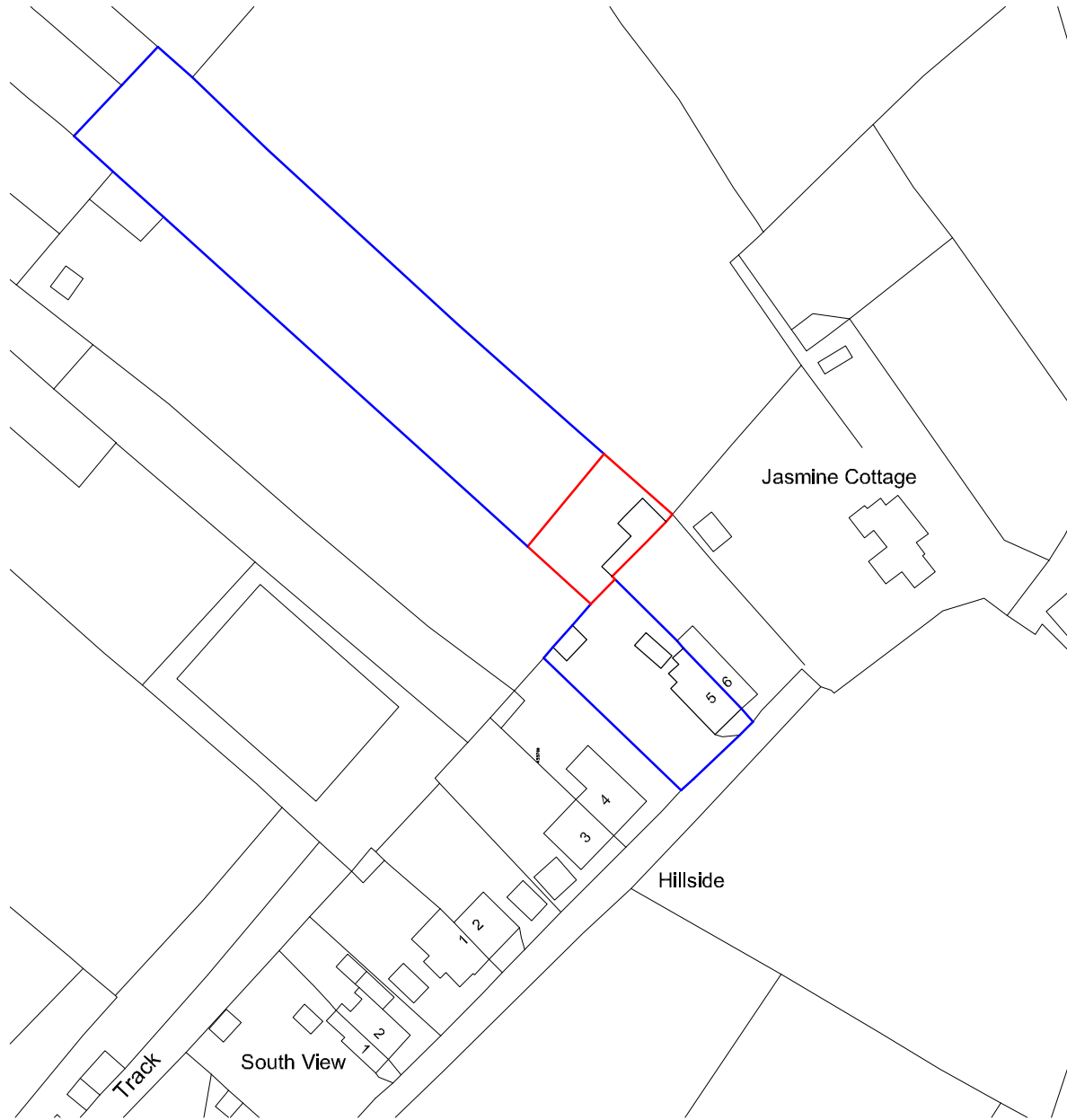
Do any of the above statements apply?

12. Declaration

I/we hereby apply for a Lawful Development Certificate as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

Date (cannot be pre-application)

06/08/2020



Location Plan

Ordnance Survey, (c) Crown Copyright 2019. All rights reserved. Licence number 100022432

Title:	Land to rear of 5 Hillside, Curdridge Winchester, SO32 3BD				
Date:	26/7/19	Client:	Atkinson		
Scale:	1: 1250 @ A4	Issue:	A	Drawing:	1

The Head of Planning Management
Winchester City Council
City Offices
Colebrook Street
Winchester
Hampshire SO23 9LJ

7th August 2020

Dear Madam

Land to the rear of 5 Hillside, Kitnocks Hill, Curdridge SO32 2HJ
Application for Certificate of Lawful Use or Development.
Use of land as residential garden.

1. We have been instructed by Grant Atkinson of 5 Hillside to invite your Council to issue a Certificate of Lawful Use or Development which recognises that, as the 'red land' to the rear of his home has been continuously used as residential garden for over a decade, it is now lawful. Our client recognises that this land comprises part of that which was made the subject of an Enforcement Notice issued by your Council on 3rd March 2020 but, as that Notice is the subject of a valid s174 appeal to the Secretary of State, section 175(4) of the Town and Country Planning Act 1990 prevails – "*Where an appeal is brought under section 174, the enforcement notice shall be of no effect, pending the final determination or the withdrawal of the appeal.*"

2. Robert Tutton invited Grant Atkinson to compile a short list of witnesses to the commencement and subsequent continuation of residential garden use of the 'red land' and each witness prepared his own Statement of Truth. The four completed statements are reproduced as attachments to this application but a summary of their consistent, robust and reliable evidence is presented here.

3. David John Allen recalls that the 'red land' originally formed part of a one-acre plot (0.4047 hectare) that was purchased by his great-grandfather James Short in 1922; a semi-detached pair of houses ('Holmcott' and 'Riceen') were erected on the Lockhams Road frontage; 'Holmcott' (now 'Hazel Mount') became the home of Mr Allen's grandparents and 'Riceen' (now 'Fieldfare') the home of his own parents, where he was raised; and, as two generations of the same family lived side-by-side, the land behind their houses (including the 'red land') unusually formed part of the domestic garden of *both* houses. Mr Allen has recalled that the 'red land' was used over the years for general garden use, including the keeping of a horse; he has confirmed that the 'red land' was used by the residents of no.6 Hillside for general garden use and relaxation and keeping a horse until 2010, when they vacated and the 'red land' was sold to Mr and Mrs Atkinson.

4. Grant Atkinson has stated that he and his wife Jacqueline were granted permission by Mrs Kathleen Allen and her son David to enter the 'red land' in May 2010 in order that they may start mowing and generally clearing the land in readiness for 14th July 2010, in order that they may start using it as their garden from that date. Mr Atkinson has produced the receipt issued by 'Lawn Tractor Man' in May 2010 for the ride-on mower that he purchased to make the mowing of the ground quick and easy.

5. James Stubbington recalls that he visited Grant and Jacqueline Atkinson on the very day (14th July 2010) that the 'red land' came into their ownership and he helped Mr Atkinson resolve a mechanical issue with the cutting deck of the ride-on mower that he had purchased.

6. Patrick Bruce of 'Viewlands' in Lockhams Road recalls that Jackie and Grant Atkinson bought the ground next to his own garden in 2010 and that is how he has come to know them. Mr Bruce remembers that there were chairs and a table on the 'red land' from the very first day that it came into their ownership.

Directors: Robert Tutton BSc (Hons), MRTPI and Niall Tutton BSc (Hons), MA

Offices also at 293 Havant Road, Farlington, Portsmouth, Hampshire, PO6 1DD.

7. It is submitted that the Statements of Truth of these four witnesses comprise robust and reliable evidence that the 'red land' at the rear of 5 Hillside has been in use as residential garden since 14th July 2010 and that, as over a decade has passed and the Enforcement Notice issued on 3rd March 2020 is of no effect, said use should be recognised as lawful.

Yours faithfully



Robert Tutton
Director