

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20211433
Location	36 Burnaby Road, Northfleet DA11 9JT
Proposal:	Application for Lawful Development Certificate in respect of the existing parking bay.
Applicant:	Mr Adrian Porter
Site Visit	N/A Desktop Assessment

Plans & Documents

Application form received 23 November 2021.
Planning Statement received 23 November 2021.
Drawing no. 001 rev A (site layout) received 23 November 2021.

Property Type

The property comprises a two storey end of terrace dwelling.

Development Plan

Due to the nature of this application, the adopted plan and national planning policies are not relevant since it relates to whether the parking bay falls under permitted development.

Planning Legislation

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Relevant Planning History

None

Consultations

Seven neighbouring properties have been consulted. No letters of representation have been received.

Natural England raise no objection.

The Health and Safety Executive raise no objection.

KCC Heritage raise no objection.

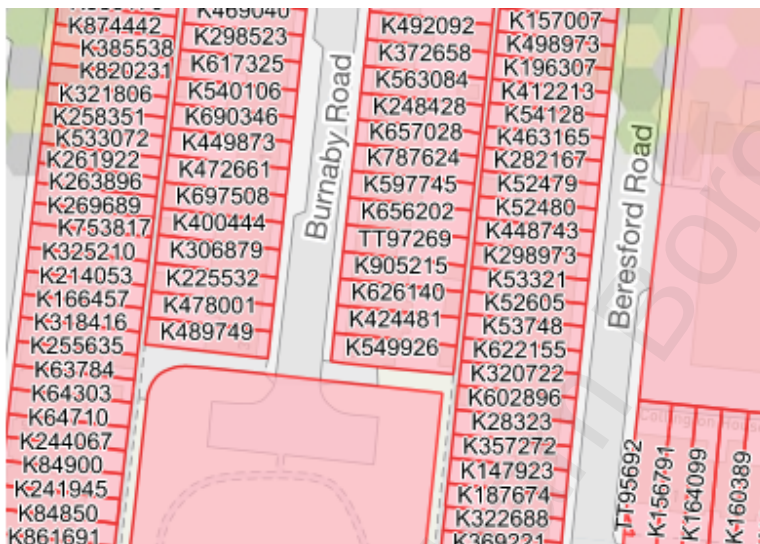
Officer Assessment

This application is for a lawful development certificate to confirm that the area of land directly to the south of the dwelling has been used as a parking area for more than 10 years and is therefore immune from enforcement action.

Procedural matter

The Planning Statement appears to contain a number of errors:

2.2 – this paragraph says that the land is unregistered but is in the process of being registered in the title of no. 28. It has been confirmed that the reference to no. 28 is a typo and should be no. 36. It also raises the question of whether the applicant owns the land in question. Para. 39 (2) (c) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states that the application should include a statement setting out the applicant's interest in the land, the name and address of any other people known to the application to have an interest in the land and whether any such other person has been notified of the application. The land in question is not in the ownership of the Council and therefore does appear to be unregistered:



3.7 – states that the declaration from the applicant is attached in Appendix 1 but it has not been provided under this application.

4.0 – the conclusion refers to yards and B8 storage which do not appear to relate to this site. The applicant's agent has stated the draft version of the report was sent in error and this section is not applicable to this application.

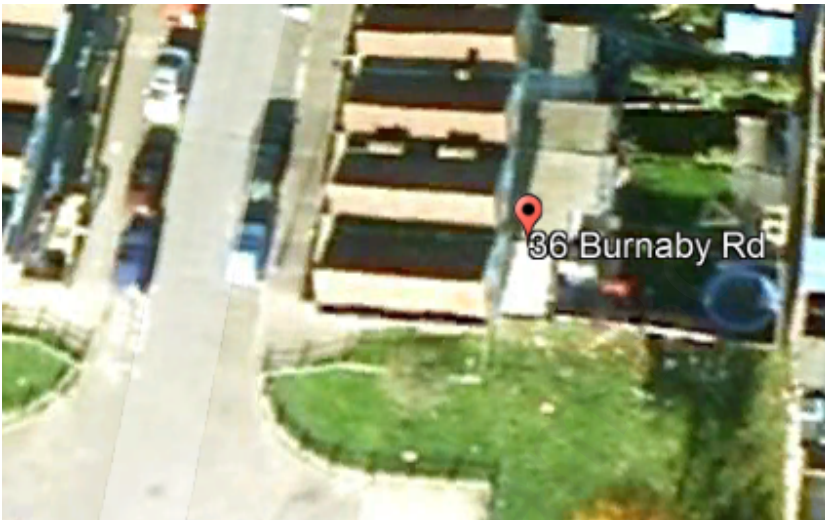
Assessment

The image below is from 1990 and appears to show the land in question used as a form of access to the rear of properties to Beresford Road. The land does not form part of the Rocherville Recreation Ground and is not within the ownership of the Council. There may be rights over the land to provide access to the rear of the houses in Beresford Road, however, if there were, this would be a civil issue between the owners of those properties and the applicant.



In 2006 it is clear that the access is no longer available as the grass has grown back and there appears to be a fence line to the east of the space in question:

2006:



In 2008 it is clear that there is a dropped kerb and tarmacked area to the side of the dwelling:



In May 2012 there is an image that shows a caravan parked on this area of land. Whilst this is four months short of 10 years ago it serves to further demonstrate that the likelihood is that the area has been used for parking for at least this amount of time:



Conclusion:

Due to the existence of the dropped kerb and fenced off area for more than 10 years, the balance of probability falls in favour of the likelihood that this area has been used for parking and therefore a lawful development certificate can be granted.

The Council is therefore satisfied that the proposal would be lawful by virtue of Section 192 (2) (a) of the Town and Country Planning Act 1990 (as amended) and a Certificate of Proposed Lawful Development can be issued.

Recommendation: Permit Lawful Development Certificate		
	Name/Signature	Date
Planning Officer		11 January 2022
Principal Planner/ Manager	Richard Hart / <i>R Hart</i>	17 th January 2022