



Certificate of Existing Lawful Use for the continued use of the parking space adjacent to main dwelling.

36 Burnaby Road Northfleet Kent DA11 9JT

Section 191 Planning Statement

Mr Adrian Porter

1 November 2021

BARRONEDWARDS
P L A N N I N G & A R C H I T E C T U R E

01474 247787

info@barronedwards.co.uk

www.barronedwards.co.uk

Gravesham Borough Council

© Barron Edwards Ltd. Trading as Barron Edwards Planning + Architecture
All Rights Reserved.
Registered Office:
39 Wrotham Road
Gravesend
Kent
DA11 0PN

All plans within this document produced by Barron Edwards Ltd are based upon Ordnance Survey mapping.

Contents

1.0	Introduction.....	1
2.0	Site and Surroundings.....	1
3.0	Evidence	3
4..0	Conclusions.....	8

1.0 Introduction

1.1 This application is made under Section 191 of the Town & Country Planning Act 1990 (as amended) by Mr. Adrian Porter for a Certificate of Existing Lawful Use for the continued use of land adjacent to the main dwelling as a parking space for 36 Burnaby Road Northfleet Kent DA11 9JT.

1.2 In addition to the application form and certificates the following documents are submitted;

Application plans:

- Drawing No. OSF001 Rev. 001 (Location Plan)
- Drawing No. OSF002 Rev.001 (Existing & Proposed Block Plans)
- Planning Statement
- Aerial Photographs –2001, 2003, 2007, 2012 and 2015
- Sworn Declarations by Applicant
- Correspondence with VOA and Sevenoaks DC Business Rates Department

2.0 Site and its Surroundings

2.1 The application site is located on the eastern side of Burnaby Road, a cul de sac, at its southern end where it adjoins the turning head for the road. It is a two storey Victorian end of terraced property with single storey porch and bay projection fronting the highway. It is located approximately 150m south of its junction with London Road (A206) and immediately north of an area of open space. The land, the subject of this LDC, is specifically separated from this open land by a small post and rail – see image below.

2.2 The land is shown as being unregistered on the Land Registry title deeds although has been used by the applicant to park his vehicles since he purchased no. 36 Burnaby Road in 1993 (28yrs ago) and is in the process of being registered in the title of No.28 on the ground of adverse possession. The parking area is 4m wide and 20m in depth with the amenity area being 4m w and 10m in depth.

2.3 We are not aware of any planning history of the application site or the piece of land in question. On historical mapping it appears as an access to the

rear of the properties fronting Beresford Road - a similar area exists on the western side of the road. It appears to have been physically separated from the open land in 2006 by the erection of the low fencing

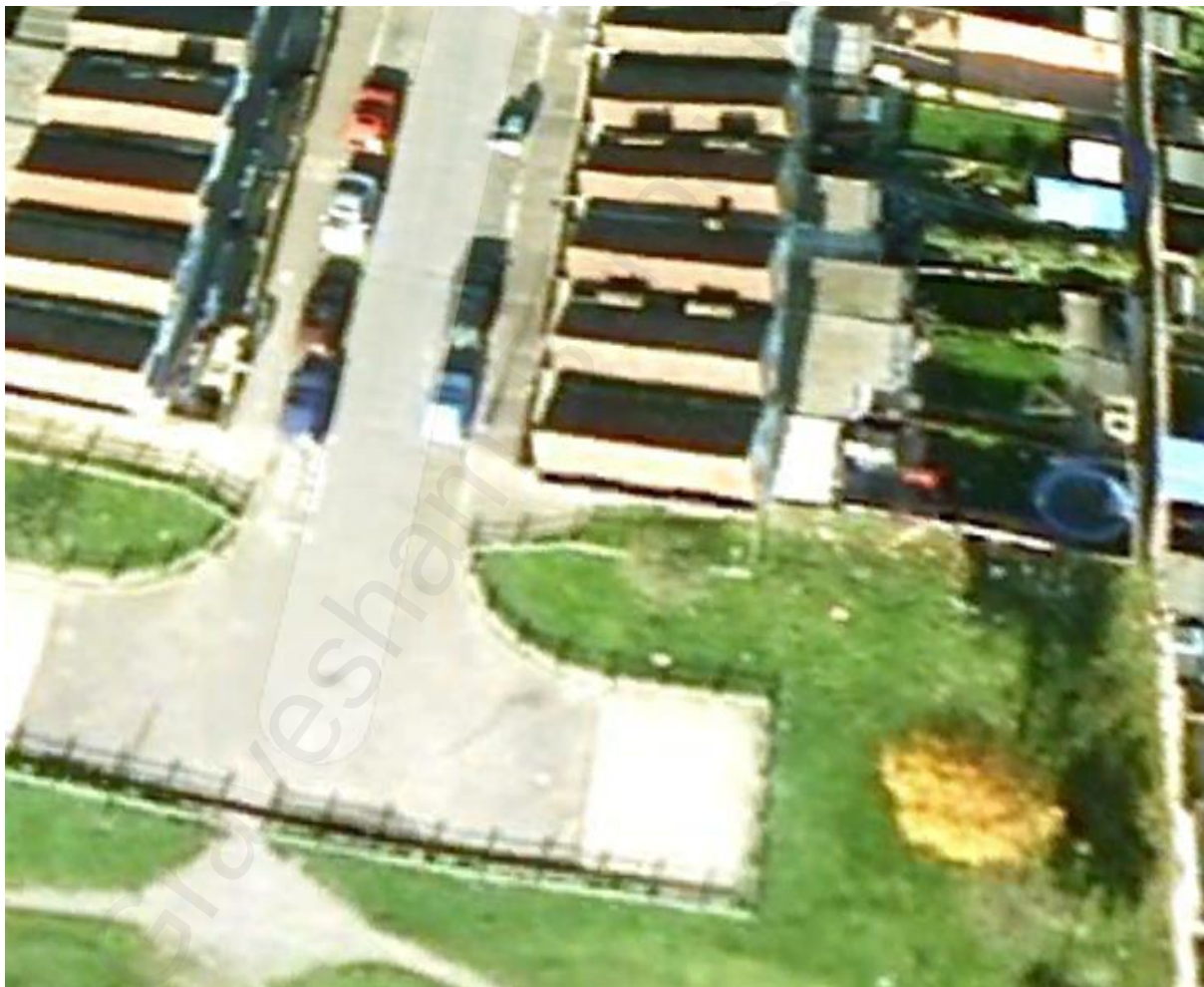


2.2 The site has been exclusively used by the applicant since he purchased No. 36 as has the remaining area of amenity land leading to a footpath serving the rear of the properties in Beresford Road. This area of previously unregistered amenity land has been used by the applicant as residential garden accessed by double gates – see above image. He has over the years clear many tons of rubbish that have been flytipped on the land. For this reason he has recently enclosed the land by 2m high close boarded fencing to formally incorporate it into his residential garden – this will be the subject of a separate C-O-U application.

3.0 Evidence

a) Aerial Photograph Images:

3.1 In order to substantiate our claims about the existence and use of the parking area we are attaching extracts from Google Earth aerial photographs which clearly show the land the subject of this Certificate application, as being enclosed and used as a parking bay from at least September 2006 continuously through to the present day. It is acknowledged that not all the images show vehicles on the land but it has to be accepted that aerial photographs are just a 'snapshot' of the time and date when taken. However it is clear that the land is 'enclosed' and used for the parking of vehicles. Burnaby Road is a CPZ and this space is the only one available to the applicant.



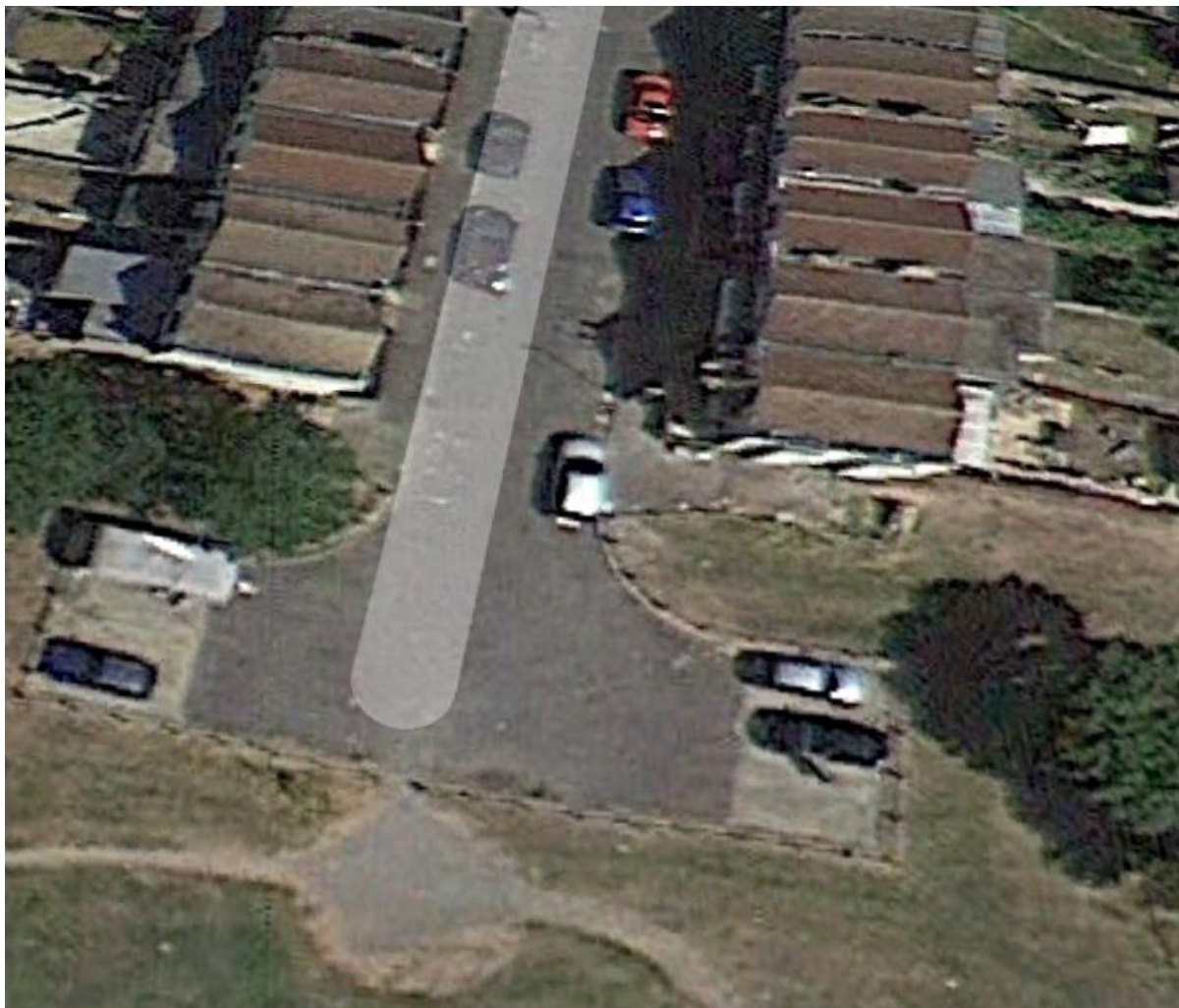
Circa September 2006i – the land is segregated from the open area by low trip fencing. The area is tarmacked with a dropped kerb.

3.2 Aerial Photograph April 2007



Circa April 2007 – another daytime photograph when the applicant was at work but clearly available for parking.. Vehicles parked in the road but not obstructing the applicants dropped kerb.

3.3 Aerial Photograph September 2013



Circa Sept 2013 – vehicle blocking our clients access and dropped kerb. Also parked on double yellow lines.

3.4 Aerial Photograph April 2015



Circa April 2015 - shows unauthorised parking in the turning head but the parking bay available for the clients use.

3.5 Aerial Photograph November 2019



Circa November 2019 – parking space available for use.j

3.6 Aerial Photograph June 2021



Circa June 2020 – clients vehicle parked on site

b) Declaration by the Applicant:

3.7 Written confirmation from the client as to when he purchased the property and started to use the front section, defined by the low fencing, and the rear area as part for his residential garden accessed via double gates – this to be subject of a separate change of use. The declaration is attached as Appendix 1.

4.0 Conclusion

4.1 We are satisfied that the submitted documentation, particularly the aerial photographs, statutory declaration and rating documentation clearly show that the use of the land and the various yards, annotated A – J, for Class B8 storage has existed on the site for a period in excess of 10 yrs from the date of submission of the application and are now exempt from planning control and would be lawful. As such we are satisfied that whilst the degree of use will have changed from time to time the nature of the use has not changed over

the requisite period. There has not been any intensification or change in the way that the land is used such as to require the benefit of planning permission. There has always been some form of storage use although it is accepted that some parts have not always had a user. However we are satisfied that any vacancy period is not such to break the continuous use, as there is no intention to cease or abandon the use, and consequently it would be exempt from planning control and lawful by virtue of Section 191(2)(a) of the Town & Country Planning Act 1990 (as amended) and a Certificate of Existing Lawful Use for the continued use of the land for B8 storage can be granted.

James Barron BA(Hons) DipTP MRTPI