

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: BR/108/22/CLE

LOCATION: 9 Annandale Avenue
Bognor Regis
PO21 2ES

PROPOSAL: Lawful development certificate for an existing 10 person HMO (sui generis).

DESCRIPTION OF APPLICATION

This application seeks to regularise the use of the building as a 10-person HMO. The building consists of a hall, 2 bedrooms, kitchen/dining and toilet at the ground floor, 2 bedrooms, bathroom, shower room and toilet at the first floor, 2 bedrooms, storage and WC /basin at the second floor (an attic).

SITE AND SURROUNDINGS

Semi-detached two-storey property with red brick and pebble dash elevations and red/brown tiles on the gable roof. An open porch and two bay windows with a gabled dormer above to the front, flat roofed dormer and two-storey outrigger with hipped roof to the rear. There is a rear garden of a reasonable size.

Residential area consisting of both detached and semidetached properties. A number of properties on the road have been converted to flats and residential nursing home.

RELEVANT SITE HISTORY

BR/395/06/	Change of use from private dwelling to house in multiple occupation with shared amenities	ApproveConditionally 09-02-07
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There were no external changes proposed.

REPRESENTATIONS

Representations Received:

Bognor Regis Town Council
No objection.

Comments on Representations Received:

N/A

CONSULTATIONS**Consultations Responses Received:**

ENVIRONMENTAL HEALTH: No objection.

Comments on Consultation Responses:

Noted.

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 CLE's have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

Section 192(2) of the Town and Country Planning Act 1990 states that:-

"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."

Paragraph 006 (Reference ID: 17c-006-20140306) of the Planning Practice Guidance (PPG) states that: "The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."

Section S171(1)-(3) and S191 TCPA 1990. The relevant time period is 09/05/2012 to 09/05 2022 i.e. 10years to the date of the application.

CONCLUSION

The application dated 09/05/22 claims that No9 Annandale Avenue has been used as a 10 person HMO since the 1960s.

Following have been viewed:

- Statutory Declaration of the owner of the property since 31 May 2019 dated 14th April 2022.
- Witness Statement of the previous owners confirming that they owned No 9 Annandale Avenue, and it was used as a large HMO for 10 people continuously from 08/09/2006 until 31/05/2019 dated 25/03/2022.
- Rental Income Report (period from 06/04/2018 to 05/04/2019)
- Rental Income Report (period from 06/04/2017 to 05/04/2018)
- Rental Income Report (period from 06/04/2016 to 05/04/2017)
- Rental Income Report (period from 06/04/2015 to 05/04/2016)
- Rental Income Report (period from 06/04/2014 to 05/04/2015)
- Rental Income Report (period from 06/04/2013 to 05/04/2014)
- Rental Income Report (period from 06/04/2012 to 05/04/2013)
- Rental Income Report (period from 06/04/2011 to 05/04/2012)
- Witness Statement of a couple who lived at No 9 Annandale Avenue (The house was that time licenced HMO for 10 people) from September 2012 until October 2013.
- The Licence to use a property at No 9 Annandale Avenue as a House in Multiple Occupation from 29 March 2017 until 28 March 2022.
- The letter from Arun District Council, Environmental Health dated 1st February 2007 and addressed to the owners of No 9 Annandale Avenue confirming there were insufficient facilities and amenities for 11 persons and reduction of the maximum number of persons in the building from 11 to 10.
- The draft of Licence to use a property at No 9 Annandale Avenue as a House in Multiple Occupation from 29 March 2007 until 28 March 2012.
- The Licence to use a property at No 9 Annandale Avenue as a House in Multiple Occupation from 31 May 2019 until 28 May 2024.
- The Tenancy Agreements (Shorthold Tenancy for 6 months):
 - 28/05/2020, room 6
 - 24/10/2020, room 3
 - 16/07/2020, Room 4
 - 06/12/2020, room 2
 - 31/05/2019, room 5
 - 31/05/2019, room 6
 - 31/05/2019, room 3
 - 18/01/2022, Room1
 - 14/01/2022, room 2, room 3, 4, 5 and room 6.

Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the contents of an application and how it must be submitted. The application must be accompanied by sufficient factual information/evidence for a local planning authority to decide the application, along with the relevant application fee. An application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning information may be justified in refusing a certificate. This does not preclude another application being submitted later on, if more information can be produced. Paragraph: 005 Reference ID: 17c-005-20140306

The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining the application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counterevidence. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others to contradict or otherwise make the applicant's version of events less than probable there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Paragraph: 006 Reference ID: 17c-006-20140306

The application form explains the property has been used as 10-person sui generis HMO since 31-12-1991.

It is for the applicant to provide sufficient evidence that No 9 Annandale Avenue has been used as a 10-person sui generis HMO for the last 10 years. The PPG states that if a LPA has no evidence itself nor any from others to contradict or otherwise make the applicant's version of events less than probable there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The evidence supplied by the applicant is a sufficient to support the permanent use within a period from 09/05/2012 to 09/05/2022.

The Council's Revenues and Benefits Department confirmed that the property is classed as an HMO since approximately 2006 and almost certainly since 2017 and the owners are liable for the Council Tax. A Houses in Multiple Occupation Officer confirmed a licence certificate dated 29/03/12 and a licence record commencing 29/03/17, which was later closed down following a change of licence holder to the current holder and this commenced 31/05/19.

The LPA have no evidence itself or from others to contradict the evidence provided by the applicant and the Council Revenues and Benefits and Private Sector Housing and Public Health comments support the application. Therefore, on the balance of probability it is recommended that the certificate is granted in accordance with the following terms.

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 as a 10-person sui generis HMO for a continuous period of 10 years.

FIRST SCHEDULE

Use of No 9 Annandale Avenue as a 10-person HMO.

SECOND SCHEDULE

No 9 Annandale Avenue, Bognor Regis, PO21 2ES.

EXTENT OF USE

The extent of use is that defined on the submitted Existing Site Plan (1:200) and Location Plan (1:1250) relates to the use of No 9 Annandale Avenue as a 10-person HMO.

BR/108/22/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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