

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/192/19/CLE

LOCATION: Holly Tree House
114 Victoria Drive
Bognor Regis
PO21 2EJ

PROPOSAL: Application for a Lawful Development Certificate for an Existing Use - use of property as a house in multiple occupation (HMO)

DESCRIPTION OF APPLICATION

The application seeks a certificate of lawfulness for the existing use of a property as a house of multiple occupation.

SITE AND SURROUNDINGS

The property is a detached two storey dwelling. The area is predominately residential of properties of varied style and design.

RELEVANT SITE HISTORY

BR/164/13/	Existing pitched roof replaced with new flat roof and enlargement of existing 2nd floor bedroom.	ApproveConditionally 19-09-13
BR/340/03/	Change of use from registered care home to student accommodation incorporating two storey extension of kitchen and bedroom ensuite.	ApproveConditionally 14-01-04
BR/229/97	Re-building of existing ground floor bedrooms 14 & 15 plus additional bedroom 16	ApproveConditionally 28-11-97

The site was previously used as a care home and permission was approved in 2003 for use as student accommodation.

REPRESENTATIONS

Representations Received:

Bognor Regis Town Council

No objection.

No representation received from nearby occupiers.

Comments on Representations Received:

Comments noted.

CONSULTATIONS

Environmental Health

Consultations Responses Received:

ADC Planning Solicitor

- I am of the opinion that the applicant has provided the council with sufficient, reliable evidence on which it can come to a finding that there has been a material change of use of the property to that of a HMO.

Comments on Consultation Responses:

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

(i) What is judged on a balance of probability;

(ii) The onus of proof is on the applicant (and not the LPA) to adduce the evidence; and

(iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

Section S171(1)-(3) and S191 TCPA 1990. The change of use to a house of multiple occupation is 10 years.

CONCLUSION

The evidence submitted in support of the application consists of

- Tenancy agreements
- HMO licence
- Letter from ex ADV Environmental Health Officer
- Payments Schedule
- Benefit Notices.

It is clear from the evidence submitted and the advice of the planning solicitor that the evidence judged on a balance of probability is sufficient and is precise and unambiguous. The LPA has no evidence itself, nor from others, to contradict or otherwise make the applicants versions less than probable. There is therefore no good reason to refuse the application.

It is therefore 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 HMO for the period of at least 10 years.

FIRST SCHEDULE

Use of the site as a house of multiple occupation.

SECOND SCHEDULE

Holly Tree House, 114 Victoria Drive, Bognor Regis, West Sussex, PO21 2EJ.

EXTENT OF USE

Use of the site as a house of multiple occupation.

BR/192/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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