

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/215/25/CLE

LOCATION: 146 Aldwick Road
Bognor Regis
PO21 2PA

PROPOSAL: Lawful development certificate for 3 No. existing flats.

DESCRIPTION OF APPLICATION

This application seeks a lawful development certificate for the existing use of the property as three self-contained flats.

SITE AND SURROUNDINGS

The site is a two and a half storey, semi-detached property with amenity space to the front and rear.

RELEVANT SITE HISTORY

REPRESENTATIONS

Representations Received:

Bognor Regis Town Council
Bognor Regis Town Council - No objection.

No representations were received from nearby occupiers.

Comments on Representations Received:

Comments noted.

CONSULTATIONS

Consultations Responses Received:

None.

LEGISLATIVE BACKGROUND

Section 191 of the Act states:

- (2) For the purposes of this Act, uses and operations are lawful at any time-
 - (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
 - (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force

Section 171B of the Town and Country Planning Act 1990 states:

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining, or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach."

The relevant time period is 22 December 2015 to 22 December 2025 where the latter is the date of the application.

Section 191 to 195 Town & Country Planning Act 1990 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 Local Planning Authority (LPA)) to adduce the evidence; and
- (iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

Paragraph 006 (Reference ID: 17c-006-20140306) of the National Planning Practice Guidance (NPPG) states:

"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 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."

Section 191(4) 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 of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

CONCLUSION

The applicant's evidence has been reviewed, and the following comments are made:

Excerpts from Rightmove - These show the sale history for Flats A and B. Flat A was sold in 2016 and 2024 and Flat B in 2000 and 2001. This information indicates that the two flats have been sold separately. Further information relating to the sales, including photographs of the ground floor flat is available online. This provides useful evidence, but does not reference the third flat on the second floor.

Insurance policy invoices and letter from Robins Row Insurance Brokers - These documents indicate that the property has been insured as three separate flats since 2002. These provide substantial evidence to indicate that the flats have been considered and used as separate properties since this time.

Planning Statement - The statement indicates that the property was converted into three flats in 1960 and the use has been uninterrupted during this time. The current owner has owned the property since 2000, and so the documentary evidence submitted covers the period between 2000 and the present day.

In this instance, the Local Planning Authority holds some additional evidence, which indicates that the property has been occupied as 3 separate flats for a considerable period. The planning history of the property shows an enquiry was received regarding the existing use of the flats in 1991, and the Council's internal mapping system also shows the property as being divided into three flats: A, B and C.

The evidence judged on a balance of probability is sufficient. The LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version less than probable, and indeed has some evidence which lends weight to the established nature of the use as 3 flats. On this basis, the dwelling has been used as three self-contained flats for in excess of 10 years. The period within which the LPA could take enforcement action against this use has expired. There is therefore no good reason to refuse the application and 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 on 22 December 2025, the property had been in use as a 3 self-contained flats and not a single dwelling for a continuous period of 10 years.

FIRST SCHEDULE

Use of 146 Aldwick Road as 3 No. self-contained flats as shown on the following plans:

- Location and Block Plans PL01
- Existing Ground Floor Plan (Flat A) PL02
- Existing First and Second Floor Plans (Flats B and C) PL03

SECOND SCHEDULE

146 Aldwick Road, Bognor Regis, PO21 2PA.

EXTENT OF USE

Use of 146 Aldwick Road as 3 No. self-contained flats.

BR/215/25/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



Based on the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown Copyright.
Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Arun District Council
100018487. 2015