

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/279/21/CLE

LOCATION: 10 Marine Drive West
Bognor Regis
PO21 2QA

PROPOSAL: Lawful development certificate for existing use as 2 separate dwellings use C3 residential.

DESCRIPTION OF APPLICATION

This application seeks to regularise the residential use of the building as two self contained flats. The building is said to consist of porch, lounge/dining, 3 bedrooms, kitchen, 2 toilets and utility at ground floor level (No 10) and lounge, kitchen/dining, 3 bedrooms (two of them en suite) and Laundry at the first floor (No 10A).

SITE AND SURROUNDINGS

Two storey building previously occupied as a bed and breakfast accommodation with enclosed glass balcony to front, single storey flat roof extension on rear. Access to side of property leads to parking at rear with three garages. The building has brick and rendered elevations with a tiled roof and white window frames.

RELEVANT SITE HISTORY

BR/65/13/	Extend and convert the existing loft space to provide managers accommodation for guest house (resubmission following BR/317/12/)	ApproveConditionally 25-04-13
BR/317/12/	Extension & conversion of existing loft space to provide managers accomodation for guest house	Refused 18-02-13
BR/178/11/	Proposed two storey extension to provide dining & kitchen facilites on the ground floor & a family suite on the first floor with first floor link to supplement the existing hotel use with an attached single storey double garage extension	Refused 05-09-11

BR/65/13/ for the conversion of the roof space with alterations to the roof with side dormers to create managers accommodation, comprising a kitchen/living room, landing, bathroom with one bedroom was approved but not implemented.

BR/178/11/ for two storey extension to provide dining & kitchen facilities on the ground floor & a family suite on the first floor with first floor link to supplement the existing hotel use with an attached single storey double garage extension was refused.

REPRESENTATIONS

Representations Received:

Bognor Regis Town Council

Bognor Regis Town Council: No objection.

Comments on Representations Received:

The application submitted cannot be determined on planning merit, there is no fall back onto the Local Plan. It can only be determined on whether the evidence submitted is sufficient to demonstrate the use applied for, has existed for the last 4 years on the balance of probability.

CONSULTATIONS

Consultations Responses Received:

None.

Comments on Consultation Responses:

N/A

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 15 December 2017 to 15 December 2021 i.e. 4 years to the date of the application.

CONCLUSION

The application dated 15 December 2021 claims that No 10 Marine Drive has been used as two separate flats since the 1960s.

Following have been viewed:

- E mail from applicant confirming the use of the property as 2 flats.
- Screenshot of Meter Reading, no date, time 1.31pm, Site Address 13-14 Marine Drive West;
- Screenshot of Meter Reading, no date, time 1.30pm, Site Address 10 Marine Drive West;
- Location Plan;
- Copy of Decision Notice, application reference BR/325/08
Addressee: Mr M Lacy, Beach House, 10A Marine Drive West
Site Address: Beach House, 10A Marine Drive West
For change of use from C3 (dwelling) to C1 (bed and breakfast using 3 existing bedrooms;
- Screenshot of floor plan - Unreadable, too small;
- Screenshot from the Property estate agent brochure, no date - Unreadable, too small;
- Screenshot from the Property estate agent brochure, no date - Unreadable, too small;
- Screenshot from the Property estate agent brochure, floor plan no date - Unreadable, too small;
- Screenshot of Gas Bills, 16 September 2019 for Beach House 10A Marine Drive West;
- Screenshot of Electricity Bill, 16 August 2018 for the Beach House, 13-14 Marine Drive West;
- Screenshot of Electricity Bill, 06 December 2018, the Beach House, 13-14 Marine Drive West;
- Photo of front elevation of Beach House (no number);
- Detailed photo of front elevation
- Application Form: Description of existing use:
'10 10a are two flat Both have been rated and separated from what was once I assume a detached house in the 1960's They both have 99 year lease Sum 60 years unexpired. Both have separate entrances gardens gas meters water electric we bought one flat in 2004 one in 2008 We have had paid rates independently 10 and 10a for years We own the freehold too, we are selling and the

buyers want to have confirmation that they are C3 residential And a certificate of lawfulness that they are 2 flats that they are my wife owns one I and my wife own one and my pension fund owns the freehold'

Supporting Statement

- Mental Health, WSCC, dated 15th December 2021 letter concluding that property is particularly well suited to the anticipated end use of 2 supported living flats with C3 use, and would provide an excellent standard of a much needed new provision.
- Screenshot from the Property estate agent brochure (White & Brooks only readable), no date - Unreadable, too small;
- Screenshot of List of properties on Marine Drive, no date, time 9:26;
- Council Tax Bill dated 05 March 2021 (Band D), for 10 Marine Drive West;
- Council Tax Bill dated 05 March 2021 (Band D), for 10A Marine Drive West;
- Recently submitted plans of ground floor and first floor; elevations and Variation of Mortgage Offer for 10A Marine Drive West/ Leasehold 2 Bedroom Flat/Maisonette Converted with Single Garage.

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 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.

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

The application form explains the property has been used as two separate flats since the 1960s. Both have separate, entrances, gardens, gas meters, water, electric: 'we bought one flat in 2004 one in 2008'.

It is for the applicant to provide sufficient evidence that No 10 has been a separate residential unit for the last 4 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 not overwhelming and the applicant has provided very little evidence to support the permanent use within a period from 15 December 2017 to 15 December 2021 ; other than screenshots without dates, gas bill (10A) dated 16/09/19, Council Tax Bill dated 05 March

2021 for 10 and 10A.

The confirmation from the applicant has been currently received; 'I Mr M Lacy can confirm that 10 and 10A Marine Drive West, Bognor Regis PO21 2QA has been used as two flats from 15 December 2017 to this application Date for 4 years.

And the Council's Revenues and Benefits Department confirmed that the property has been treated as separate units since 1993 when the Council's records started.

The LPA have no evidence itself or from others to contradict Mr Lacy's statement and the Council Revenues and Benefits comments support the application. Therefore it is considered on the balance of probability that consent should be granted. 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 2 separate self-contained flats for a continuous period of 4 years.

FIRST SCHEDULE

Use of No 10 Marine Drive West as 2 separate self-contained flats.

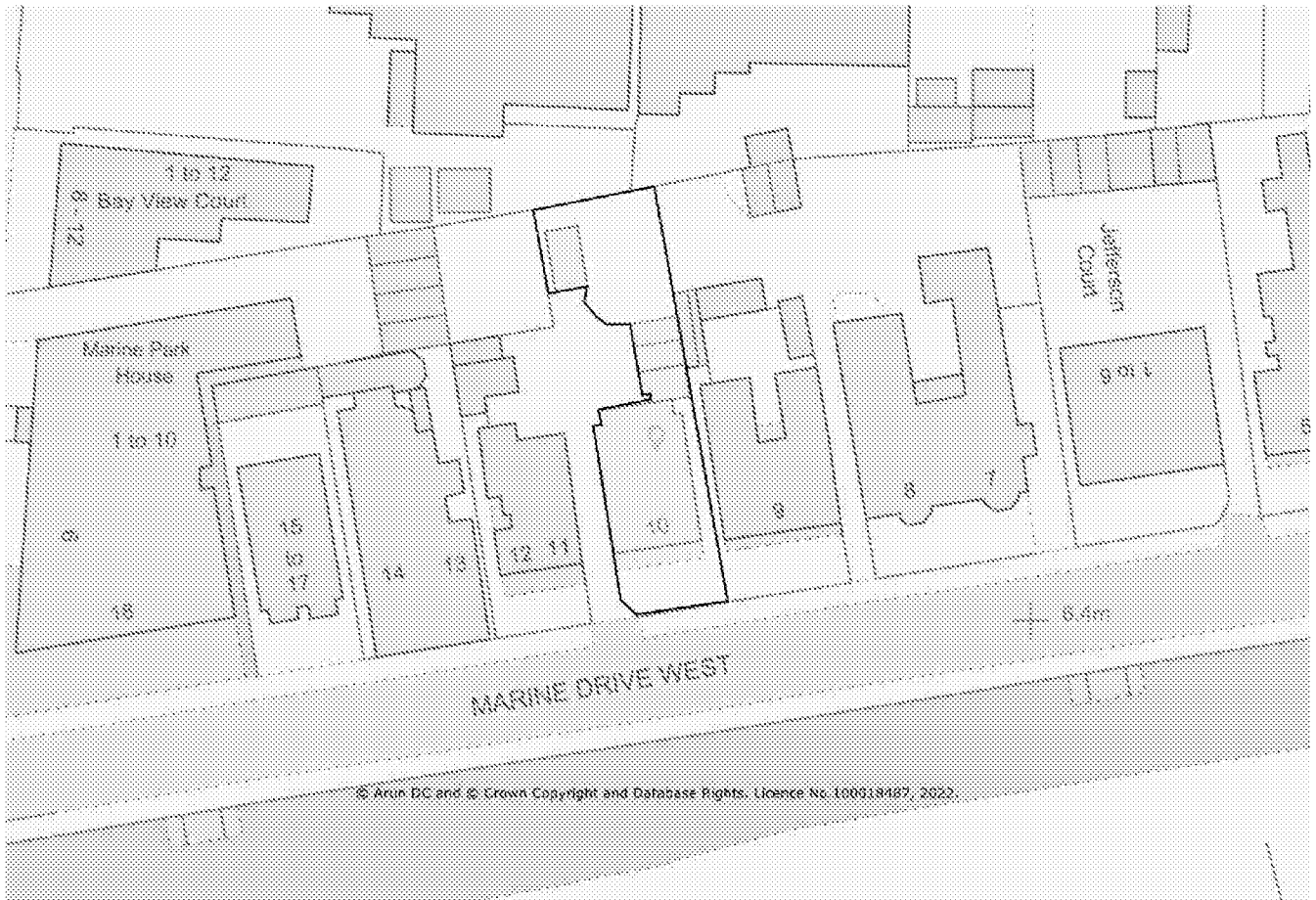
SECOND SCHEDULE

No 10 and No 10A Marine Drive West, Bognor Regis, PO21 2QA.

EXTENT OF USE

The extent of use is that defined on the submitted Ground Floor and First Floor Plan (1:100) relates to the use of No 10 Marine Drive West as 2 separate self-contained flats 10 and 10A.

BR/279/21/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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