

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/47/19/CLE

LOCATION: 150 Aldwick Road
Bognor Regis
PO21 2PA

PROPOSAL: Lawful development certificate for the existing use of building as 6 self contained flats.

DESCRIPTION OF APPLICATION

The application seeks a certificate of lawfulness for use of the building as 6 self contained flats.

SITE AND SURROUNDINGS

The site is occupied by a three storey building. It is set within a terrace of properties of matching appearance.

RELEVANT SITE HISTORY

BR/24/95/CLE	Application for a Certificate of Lawfulness for an existing use - use of property as 12 bedsits	Approve 14-06-95
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Noted.

REPRESENTATIONS

Representations Received:

Bognor Regis Town Council

No objection

No representation received from nearby occupiers.

Comments on Representations Received:

Comments noted.

CONSULTATIONS

Consultations Responses Received:

ADC Legal Response - I am of the opinion the building has been run as a HMO. The building regulation certificate is not for the conversion. The council tax and remaining evidence is not substantial.

Building Control - No evidence for a material change of use for conversion.

Council Tax- It would appear it was originally a HMO and converted to individual flats in 2002.

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 self contained flats is 10 years.

CONCLUSION

The evidence submitted in support of the application consists of

- Council Tax bands for each flat.
- Letters from a regular builder and fire servicer and secretary.
- Layout Plans
- Tenants and occupation dates
- Electricity bills.

The consultation responses from our Legal Department and Building Control rely on the fact that there was no compliant conversion and as such it cannot be classed as individual flats. Whilst there was no formal conversion, it does not mean that the building hasn't been used as something other than a HMO for the previous 10 years.

On the balance of probability based on the evidence that has been supplied, it is considered that the dwelling has been used as individual flats regardless of whether a formal conversion under the Building

Regulations took place.

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 has been in use as 6No. individual flats.

FIRST SCHEDULE

The use of the property as 6No individual flats as indicated on the plans

- Floor Plan, Elevations and Site Plan - 9A**
- Block Plan**

SECOND SCHEDULE

150 Aldwick Road, Bognor Regis, West Sussex, PO21 2PA

EXTENT OF USE

The use of the property as 6No individual flats.

BR/47/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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