

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/56/12/CLE

LOCATION: Flat above garage (known as No. 35)
33 Shelley Road
Bognor Regis

PROPOSAL: Application for a Certificate of Lawfulness for an existing use as a dwelling (Class C3).

DESCRIPTION OF APPLICATION

This is an application for a Certificate of Lawfulness for an existing use of a garage store as a residential flat. The applicant must provide evidence that the use has been established for four continuous years.

DESCRIPTION OF SITE AND SURROUNDINGS

Site Details:

Large detached house with double garage integral at the side. Pebble dashed and painted white. Tiled roof. The flat is accessed through the garage doors. The front has 3.5 on the garage door and a letter box.

Surrounding area:

Predominately residential.

RELEVANT SITE HISTORY

BR/341/89	Outline Application for the erection of a dwelling	ApproveConditionally 17-07-1989
BR/167/59	Convert house to 2 flats	Approve 19-09-1959

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

NO OBJECTION Concern was raised at the possibility of the flat being turned into an HMO.

5 letters of objection - This is a ploy to increase occupancy. Previous tenants of the house have been growing drugs. Concerned about ulterior motive for the owner to turn it into an

HMO.

Comments on Representations received:

Town Council - Noted. This is not a Planning Application but a legal certificate to prove that an unauthorised use has continued for 4 continuous years. Any future use is speculation.

Others - Noted (as per Town Council comments above)

CONSULTATIONS

Planning Solicitor

Council Tax

Consultations responses received:

Planning Solicitor

33 and 35 Shelley Road are semi detached dwellings that is two dwellings which are both in the ownership of Peter Rooke. The two have been separately occupied and or let for some time. Council Tax have confirmed by email dated 18th February 2012 that 35 has been banded as a separate dwelling since 1993. Number 35 consists of a garage, wc store and stairs, 1 bedroom, living room and bathroom.

Recommend Grant. The time period is 27th February 2008 - 27th February 2012. That is a period of four years for a material change of use to residential. The evidence satisfies the test - and there is no contradictory evidence. The evidence judged on a balance of probability and the tests of SS191 Town and Country Planning Act 1990 and Circular 10/97 Annex 8 time SS171 (1) - (3) Town and Country Planning Act 1990 is sufficient, precise and unambiguous.

Council Tax

Council Tax Records confirm that 33 Shelley House is a shared house let to tenants, and that 35 Shelley House is a self contained property which is let to tenants since 1st April 1993.

Comments on Consultation responses:

Noted and agreed.

LEGISLATIVE BACKGROUND

Principle

Section 191 to 195 Town & Country Planning Act 1990 and DOE Circular 10/97 Annex 8 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.

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

The relevant time limit for this operation is 4 years.

1. Principles

Section 191 Town and Country Planning Act 1990 and Circular 10/97 Annexe 8

1.1 Time: SS171(1)-(3) and S191 Town and Country Planning Act 1990.

2. Assessment

The evidence consists of:

Planning Statement

The statement states that the existing flat known as 35 consists of 1 bedroom, living room,

kitchen and bathroom on the first floor and garage, toilet, store and stairs to the first floor. The present owner has owned the property 33 and 35 since 31st July 1992 with 35 used as a separate unit by the previous owner. Also submitted with the statement is an e-mail from Revenues and Benefits at Arun District Council confirming that Mr. John Richwood and Miss Emma Hart have been registered for Council Tax at 35 Shelley Road for at least four years up to the 3rd December 2011.

Letter for Mr. Mandry Accountant

Mr. Rooke has confirmed that he has acted for Mr. Rooke since 1992 and that the flat has been rented out for many years, in excess of four years and that the rental income has been included in his letting accounts and self assessment tax return as declared to H.M. Revenue and Customs.

District Council Evidence

Council Tax Records confirm that 33 Shelley House is a shared house let to tenants, and that 35 Shelley House is a self contained property which is let to tenants since 1st April 1993.

Discussion on Site with Neighbour at the time of the Planning Officer's site visit a neighbour who has lived opposite the site confirmed that the unit above the garage has been a separate flat for many years.

CONCLUSIONS

The Applicant has provided precise and clear evidence that the flat above the garage has been used as a separate unit of accommodation providing a bedroom, living room, kitchen and bathroom for four continuous years. It is therefore, recommended that consent is granted.

RECOMMENDATION

APPROVE

The Arun District Council hereby certify that on the 27th February 2012 the use hereby described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged boldly on the plan attached to this certificate was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

Use of the first floor above the garage show hatched on the attached plan as a one bedroom flat known as 35 Shelley Road, Bognor Regis.

35 Shelley Road, Bognor Regis which is shown on the plan to this certificate as within the area edged bodily in black.

The extent of the use is as a one bedroom flat.



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