

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/75/19/CLE

LOCATION: Berkeley Court, Flat 48
The Esplanade
Bognor Regis
PO21 1LX

PROPOSAL: Lawful development certificate for the existing change of kitchen to bedroom with kitchen area re-located into existing lounge.

DESCRIPTION OF APPLICATION

This is a Certificate of Lawfulness application which seeks to confirm that the existing replacement of the kitchen with a new bedroom and a re-location of the kitchen, being the part of an existing living room is lawful and it does not need a planning consent.

SITE AND SURROUNDINGS

The block of flats of an L-shape, which the proposal flat is a part of, is situated within a prominent corner position on the junction of The Esplanade with Clarence Road. Its south-eastern elevation is facing to the sea shore with the Brandstand on the opposite side of the road and south-western to the Clarence Road. The balcony of proposal flat is on the south-western elevation overlooking the park along The Esplanade and the bedrooms and bathroom windows are situated on the north-eastern elevation facing to the yard.

RELEVANT SITE HISTORY

BR/93/82	51 Residential Flats Compris- Ing 4 No 1 Beds 35 No 2 Beds And 12 No 3 Bedroom Flats	ApproveConditionally 12-05-82
BR/833/80	O/A For Construction Of 50 No Flats & Garage Accommodation	ApproveConditionally 21-01-81

The proposal flat is a part of the residential development approved under reference BR/93/82 comprising 51 flats (4 one-bed and 35 two-beds).

REPRESENTATIONS

Representations Received:

Bognor Regis Town Council

Bognor Regis Town Council has a no comment to this application.

1 letter of support (79 Colley Avenue):

The fact the room is no longer kitchen is irrelevant, however, the author of the letter believes the lease is written wrongly.

Objections:

The chairmen of the Board (Berkley Court) objects the application on the ground of absence of their approval required for any application affecting their development.

There are concerns of a potential foe water leaks and damage. The new lounge/kitchen area is not sufficient for 3 bed property. The gas boiler is now situated within a new bedroom area (flat 44).

The alteration of an existing layout without applying for set an unwelcomed precedent (flat 39).

Kitchen without window and the boiler in the bedroom is not ideal solution (flat 49).

The alteration of an existing layout might invalidate their insurance (flat 52)

Comments on Representations Received:

The above comments on the alteration of the layout and the potential damage are not planning issues but a building control and a civil matter issues.

CONSULTATIONS

Consultations Responses Received:

None

LEGISLATIVE BACKGROUND

Section 55 of the Town and Country Planning Act 1990 makes it clear the meaning development :-

Meaning of "development" and "new development".

(1)

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

F1(1A)

For the purposes of this Act " building operations " includes -

(a) demolition of buildings;

- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder

(2)

The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land:

- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which:
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building,and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;
- (b) the carrying out on land within the boundaries of a road by a . . . highway authority of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment;.
- (c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
- (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
- (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;
- (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.
- (g) the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.

(2B)

The development order may make different provision for different purposes.

(3)

For the avoidance of doubt it is hereby declared that for the purposes of this section:

(a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used;

PRINCIPLE:

With regards to the above the proposed alteration of an existing layout of the Flat 48 of Berkley Court is not relevant to criteria of development and complies with paragraph (2) which explains which operations shall not be taken for the purposes of this Act to involve development of the land.
Therefore the proposed does not require application for a planning permission.

CONCLUSION

The proposed alteration of an existing layout of the proposal flat does not include " building operations " relevant to criteria of Section 55 of the Town and Country Planning Act 1990 and it accords with paragraph (2) which states:

The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land:

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which:

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building,
and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

It is therefore considered in the context of the above that the proposed alteration of an existing layout, carrying out the works which affect only the interior does not require an application for planning permission and that the certificate should be granted.

The building regulations may apply to alterations and they can be sought either from the building control department of the local authority or from an approved inspector.

RECOMMENDATION

APPROVE

The Arun District Council hereby certify that the proposed alteration of an existing layout of Flat 48 Berkeley Court is not considered to be a development since the proposal is not development as defined in section 55 of the Town and Country Planning Act 1990 therefore it does not required an application for planning permission and that the certificate should be granted.

FIRST SCHEDULE

Use of the existing flat as a 1 residential 3 bedroom unit.

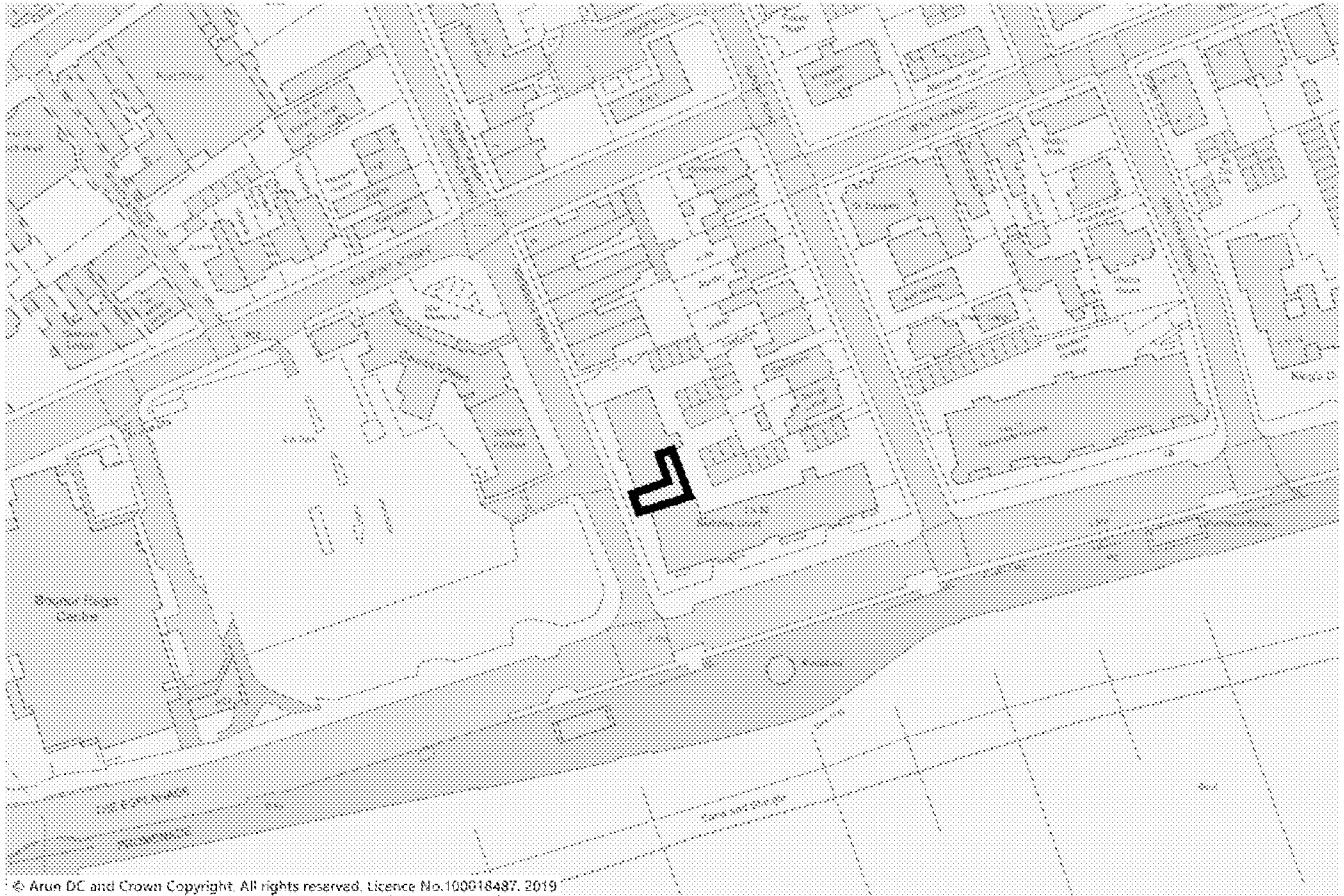
SECOND SCHEDULE

Berkley Court, Flat 48, The Esplanade, Bognor Regis, PO21 1LX

EXTEND OF USE

The extent of use is that defined on the submitted floor plan as proposed comprising 3 bedrooms within 1 residential unit, flat 48 and relates to Berkley Court, The Esplanade the use of this two storey annexe as a separate dwelling comprising of 3 bedrooms (one of them ensuite), bathroom, a living/dining/kitchen area and a hall

BR/75/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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