

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: FP/121/19/CLE

LOCATION: Annexe
1 First Avenue
Felpham
PO22 7LG

PROPOSAL: Application for a Certificate of Lawfulness for an existing use of annex as a self contained residential unit within the curtilage of an existing detached building.

DESCRIPTION OF APPLICATION

The application seeks to a Certificate of Lawfulness for the use of a detached annexe as a separate residential unit.

SITE AND SURROUNDINGS

The site is situated to a corner and is occupied by a two storey dwelling with a separate two storey detached annexe.

RELEVANT SITE HISTORY

FP/219/14/HH	Loft conversion, ground floor & first floor extensions	ApproveConditionally 09-02-15
FP/24/91	Erection of bedroom extension ensuite	ApproveConditionally 07-05-91
FP/83/90	Erection of extension for use as self contained flatlet	Refused 09-07-90

Relevant planning history noted.

REPRESENTATIONS

Representations Received:

No response.

No representation received from nearby occupiers.

Comments on Representations Received:

None.

CONSULTATIONS

Consultations Responses Received:

ADC Legal Response - I am of the opinion that sufficient and reliable evidence has been provided and there has been a change of use of the building. I am of the opinion that 'The Garrett' has been in use as a self-contained residential unit since 2010 which is based on the evidence provided.

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 a single dwelling is 4 years.

CONCLUSION

The evidence submitted in support of the application consists of tenancy agreements. It is clear from the evidence submitted and from the advice of the Planning Solicitor that the evidence judged on the balance of probability is sufficient and reliable evidence to demonstrate that the change occurred more than 4 years ago. The LPA has no evidence itself, nor from others, to contradict or otherwise make the

applicants version less than probable.

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 a separate residential unit for a continuous period of 4 years.

FIRST SCHEDULE

Use of the annexe as a separate residential unit as indicated on the plans;

- Location Plan
- Site Plan
- Ground and Floor Plans
- Elevation Plans

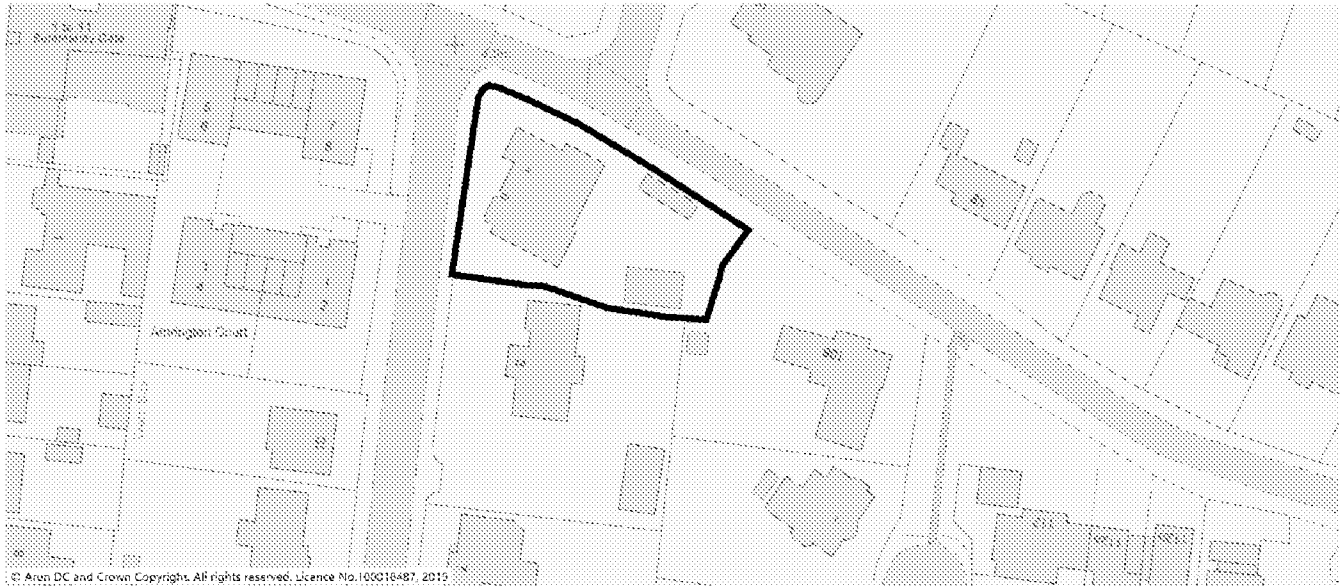
SECOND SCHEDULE

Annexe, 1 First Avenue, Felpham, West Sussex, PO22 7LG which is shown on the plan to this certificate, within the area edged boldly in black.

EXTENT OF USE

Use of a detached annexe as a separate residential unit comprising a living/kitchen/diner, 1No bedroom and bathroom and garage.

FP/121/19/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