

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/39/20/CLE

LOCATION: 44B Summerley Lane
Felpham
PO22 7HX

PROPOSAL: Lawful development certificate for the existing use of self contained first floor office use within building with community store with flat above.

DESCRIPTION OF APPLICATION

This is an application for a Certificate of Lawfulness for the existing use of a first floor unit to be used for a self-contained office. The applicant must provide evidence that the unit has been used as a self-contained office for a continuous period of time of at least 10 years.

SITE AND SURROUNDINGS

One and a half storey building. Ground floor commercial use (Summerley Convenience Store/Post Office - 44), residential flat, FP/40/18/CLE (44A) and office (44B) in the first floor roof space. Customer car park to the front, private parking/servicing area to rear. Set in a predominantly residential area.

RELEVANT SITE HISTORY

FP/40/18/CLE	Application for Lawful Development Certificate for an existing use - use of a first-floor unit known as 44a Summerley Lane as a self-contained residential flat in breach of planning permission FP/212/00	Approve 08-05-18
FP/92/02/	Approval of reserved matters following outline permission FP/212/00 for the demolition of existing building within application site and the construction of a community store, post office, dentist & ancillary offices.	ApproveConditionally 15-08-02
FP/212/00/	Outline application for the demolition of existing parade of shops and flats. The construction of 12 houses and community store	ApproveConditionally 06-03-01

Relevant history noted.

REPRESENTATIONS

Representations Received:

Felpham Parish Council

No objection.

Comments on Representations Received:

This application is restricted to test the legal merits of what is being applied for i.e whether the unit has been used as a self contained office for more than 10 years.

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 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 relevant time period is February 2010 to February 2020 i.e.10 years to the date of the application.

CONCLUSION

The applicant has submitted copies of:

1. Affidavit by Mrs J Shilton and dated 1 May 2019
2. The solicitors (The Neville & Jones Partnership) letter confirming purchase of the property known as 44A and 44B Summerley Lane, Bognor Regis dated 24 February 2005.

Business Rates - Arun DC

3. The 'Notice of Alteration to the 2005 Rating List' from Valuation Officer dated 25 May 2005.
4. 'Non domestic rates' demand notice (1 April 2005 - 31 March 2006) from Arun District Council dated 14 January 2006.
5. 'Non domestic rates' demand notice (1 April 2006 - 31 March 2007) from Arun District Council dated 26 September 2006.
6. 'Non domestic rates' demand notice (1 April 2007 - 31 March 2008) from Arun District Council dated 14 March 2007.
7. 'Non domestic rates' demand notice (1 April 2008 - 31 March 2009) from Arun District Council dated 12 March 2008.
8. 'Non domestic rates' demand notice (1 April 2011 - 31 March 2012) from Arun District Council dated 9 March 2011.
9. 'Non domestic rates' demand notice (1 April 2011 - 31 March 2012) from Arun District Council dated 12 May 2011 (refers to dating back to April 2010).
10. 'Non domestic rates' demand notice (1 April 2012 - 31 March 2013) from Arun District Council dated 9 March 2012.
11. 'Non domestic rates' demand notice (1 April 2013 - 31 March 2014) from Arun District Council dated 14 March 2013.
12. 'Non domestic rates' demand notice (1 April 2014 - 31 March 2015) from Arun District Council dated 12 March 2014.
13. 'Non domestic rates' demand notice (1 April 2015 - 31 March 2016) from Arun District Council dated 12 March 2015.
14. 'Non domestic rates' demand notice (1 April 2016 - 31 March 2017) from Arun District Council dated 10 March 2016.
15. 'Non domestic rates' demand notice (1 April 2017 - 31 March 2018) from Arun District Council dated 9 March 2017.
16. 'Non domestic rates' demand notice (1 April 2018 - 31 March 2019) from Arun District Council dated 9 March 2018.

UTILITIES:

British Telecom

17. Invoice from British Telecom for supply of telephone line and services dated 17 January 2006.
18. Invoice from British Telecom for supply of telephone line and services dated 16 July 2007.
19. Invoice from British Telecom for supply of telephone line and services dated 9 April 2008.
20. Invoice from British Telecom for supply of telephone line and services dated 11 October 2009.
21. Invoice from British Telecom for supply of telephone line and services dated 11 October 2010.
22. Invoice from British Telecom for supply of telephone line and services dated 11 April 2011.
23. Invoice from British Telecom for supply of telephone line and services dated 4 September 2012.
24. Invoice from British Telecom for supply of telephone line and services dated 4 June 2013.
25. Invoice from British Telecom for supply of telephone line and services dated 15 October 2014.
26. Invoice from British Telecom for supply of telephone line and services dated 3 June 2015.
27. Invoice from British Telecom for supply of telephone line and services dated 11 May 2016.
28. Invoice from British Telecom for supply of telephone line and services dated 3 September 2017.
29. Invoice from British Telecom for supply of telephone line and services dated 16 April 2018.

- 30. Invoice from British Telecom for supply of telephone line and services dated 16 July 2019.
- 31. Invoice from British Telecom for supply of telephone line and services dated 16 January 2020.
- 34. Invoice from Southern Electric for supply of electricity dated 12 April 2005.

Portsmouth Scottish and Castle Water Company

- 35. Letter from Scottish and Castle Water Company confirming recommendation of a meter installation at the property dated 26 July 2006.
- 36. A receipt for water services from Scottish and Castle Water Company dated 4 July 2007.
- 37. A receipt for water services from Scottish and Castle Water Company dated 21 February 2008.
- 38. A receipt for water services from Scottish and Castle Water Company dated 24 August 2009.
- 39. A receipt for water services from Scottish and Castle Water Company dated 13 September 2010.
- 40. A receipt for water services from Scottish and Castle Water Company dated 21 February 2011.
- 41. A receipt for water services from Scottish and Castle Water Company dated 17 August 2012.
- 42. A receipt for water services from Scottish and Castle Water Company dated 20 February 2013.
- 43. A receipt for water services from Scottish and Castle Water Company dated 11 September 2014.
- 44. A receipt for water services from Scottish and Castle Water Company dated 4 March 2015.
- 45. A receipt for water services from Scottish and Castle Water Company dated 18 February 2016.
- 46. A receipt for water services from Scottish and Castle Water Company dated 6 September 2017.
- 47. A receipt for water services from Scottish and Castle Water Company dated 6 June 2018.
- 48. A receipt for water services from Scottish and Castle Water Company dated 10 June 2019.

Southern Electricity

- 49. A receipt for electricity services from Southern Electric dated 7 July 2005.
- 50. A receipt for electricity services from Southern Electric dated 7 April 2006.
- 51. A receipt for electricity services from Southern Electric dated 9 July 2007.
- 52. A receipt for electricity services from Southern Electric dated 10 April 2008.
- 53. A receipt for electricity services from Southern Electric dated 16 October 2009.
- 54. A receipt for electricity services from Southern Electric dated 5 October 2010.
- 55. A receipt for electricity services from Southern Electric dated 11 April 2011.
- 56. A receipt for electricity services from Southern Electric dated 15 October 2012.
- 57. A receipt for electricity services from Southern Electric dated 11 April 2013.
- 58. A receipt for electricity services from Southern Electric dated 15 October 2014.
- 59. A receipt for electricity services from Southern Electric dated 16 January 2015.
- 60. A receipt for electricity services from Southern Electric dated 5 October 2016.
- 61. A receipt for electricity services from Southern Electric dated 6 October 2017.
- 62. A receipt for electricity services from Southern Electric dated 9 January 2018.
- 63. A receipt for electricity services from Southern Electric dated 4 October 2019.
- 64. A receipt for electricity services from Southern Electric dated 9 January 2020.

The Council has no evidence or information to suggest that the Property has not been used as stated during that period of time.

On the balance of probability, it is considered that the application contains sufficient information to demonstrate that 44B Summerley Lane has been occupied continuously as a self-contained office for at least 10 years prior to the date of this application. Therefore, it appears to be appropriate to issue a CLEUD.

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 part of the first floor flat above the community store was used as a self contained office for a continuous period of 10 years.

FIRST SCHEDULE

Use of part of the first floor of the building known as 44 Summerley Lane, Felpham, West Sussex, PO22 7HX as a self-contained office.

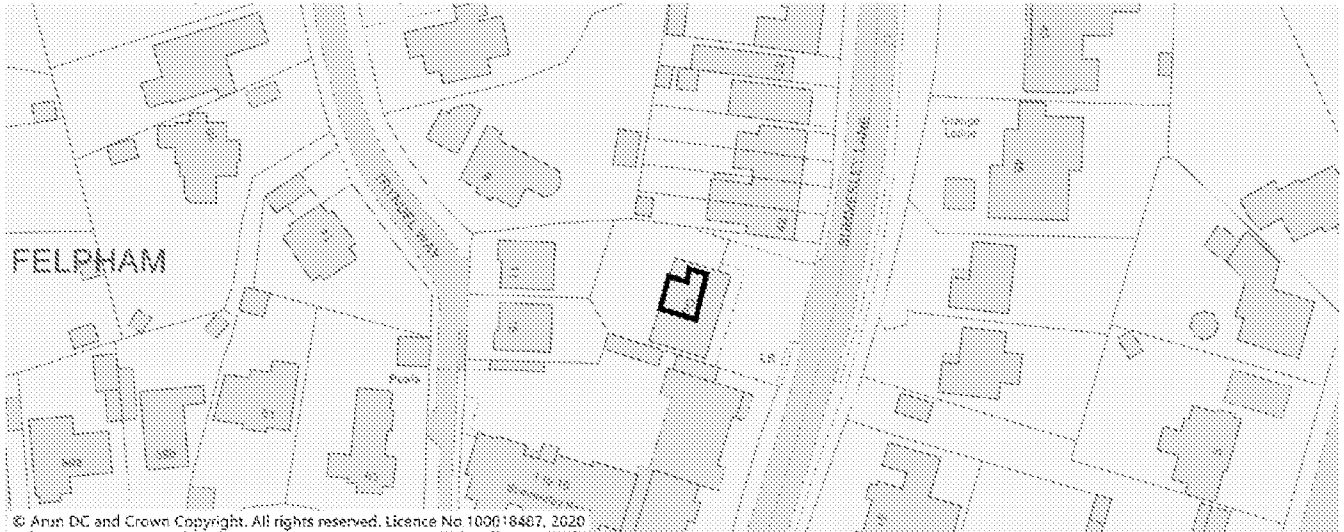
SECOND SCHEDULE

44B Summerley Lane, Felpham, West Sussex, PO22 7HX, which is shown on the plan to this certificate, with the area of the first floor edged boldly in black.

EXTENT OF USE

Use is the part of the first floor of 44 Summerley Lane defined as 44B Summerley Lane which is accessed from the ground floor door marked 44a and 44b.

FP/39/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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