

Kathryn Welch

From: Leslie Roberts
Sent: 28 May 2021 09:40
To: Kathryn Welch
Cc: Caroline Perry
Subject: Proposed Lawful Use 18a River Road Littlehampton [DPS:LM:8557:B]
Attachments: decision LU-312-20-HH.pdf; Appeal re MCU.pdf; Appeal decision incidental ancillary.pdf

Dear Kathryn

I have now looked at the application for the LDCP and the change of use to the garage that created the annexe.

In my view the application is not made out and should be refused. The applicant bears the burden of proof and what is submitted does not convince me that the proposal would not be a material change of use. A change of use to holiday accommodation can as a matter of fact and degree constitute a material change of use see *Moore v Secretary of State for Communities and Local Government and another [2012] EWCA Civ 1202*. The applicant bears the burden of proving that as a matter of fact and degree this would not be the case here.

As regards the condition imposed when the garage was converted, holiday rental would not be incidental, as required by the condition. Incidental" is indicative of a secondary or subordinate use see the attached Inspectors decision. As the proposed use would be in breach of the condition it is not lawful and the certificate should be refused.

Kind regards

Leslie Roberts

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