

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

REF NO: LU/372/17/CLE

LOCATION: Flats 1 & 2
28 New Road
Littlehampton

PROPOSAL: Lawful development certificate for 2 No. existing flats.

DESCRIPTION OF APPLICATION

The application drawings indicate that the property has been divided horizontally and provides 2 self contained flats.

DESCRIPTION OF SITE AND SURROUNDINGS

The site is occupied by a two storey terraced property which has been converted into 2 self-contained flats for which planning was not obtained. The site is close to the core of the town centre.

RELEVANT SITE HISTORY

LU/217/09/	Conversion and extension of existing terrace house into 2 No. two bed self contained flat units	Withdrawn 30-10-2009
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Noted.

REPRESENTATIONS

Representations received:

Littlehampton Town Council

Littlehampton Town Council Objects on the following grounds:

The Town Council's Planning and Transportation Committee considered this matter at its meeting held on Monday 11th December 2017 and objected to the application. The Committee objected to the proposals on the grounds that they represented the loss of a much-needed family home and that the plans did not meet the current space standards. It was also noted that this was a retrospective planning application and that an earlier application to convert this dwelling into flats had been withdrawn. The Committee therefore held the view that the planning authority should take action to restore the property to a family dwelling.

Comments on Representations received:

The consideration in this application is not as suggested by the Town Council. The issue is whether on the balance of probability to premises have been converted into 2 self contained flats and occupied as such for a continuous period of not less than 4 year before the date of

application. In this case the date of application is 07 November 2017.

CONSULTATIONS

Planning Solicitor

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.

In this instance the proposed works will be assessed against the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2015 (as amended).

In this instance the proposed works will be assessed against the Town and Country Planning Act 1990 (as amended) c. 8 Part VII Introductory Section 171B:-

Extract from Time Limits:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

In this case the applicant must prove that on the balance of probability to premises have been converted into 2 self contained flats and occupied as such for a continuous period of not less than 4 years before the date of application. In this case the date of application is 07 November 2017.

Government guidance states that in cases such as this application proof needs to be submitted

that the residential use has been carried out continuously for a period of 4 years. If the Local Planning Authority has evidence that the applicant's claim is not correct it may refuse a Certificate.

CONCLUSIONS

The evidence submitted in support of the application comprises:

1. SGN Connections Letter (Gas) - Refers to First Floor Flat - 20 Oct 2010
2. Tenancy Agreement (Unsigned) - Refers to Flat 2 - 01 Feb 2012
3. Gas Bill (1 Day) - Refers to First Floor Flat - Jan 2013
4. S Water Bill - Refers to Flat 1 - 03 April 2017
5. Arun DC Empty Property Officer Letter - Refers to First Floor Flat - 04 Oct 2017. The letter states that "We have your property recorded as empty since the 28.12.16"

The initially submitted application was accompanied by no supporting evidence. following an email from the case officer the above evidence was received. The agent/applicant was further advised on 11 December 2017 as follows:

As I advised in my email dated 04 December, your client must provide sufficient material to lead to conclusion that a use as 2 flats has taken place for a continuous period of years leading up to today. The number of years for residential use is 4 years up to the date of application.

The information submitted is not sufficient to demonstrate this, there are significant gaps between 07.11.2013 and 07.11.2017 (4 years). This is self-evident from the table (the table referred to is the above list as sent to the agent). As stated earlier the guidance requires that the evidence needs to establish that use has been carried out continuously for 4 years. The letter from the Council's empty property shows that the first floor flat was empty during the 4 years when it is claimed to have been used as a flat. This is Council evidence that the use has not operated continuously and the application therefore fails.

No further information or evidence has been received. The agent/applicant has not demonstrated that on the balance of probability the property has been converted and in use as 2 flats for a continuous period of 4 year prior to and up to the date of application.

The certificate is recommended for refusal.

RECOMMENDATION

PP REQUIRED

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 not lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the date specified above, the use of the property as a 2 flats had not demonstrated to have been continuous for a period of not less than 4 years.

FIRST SCHEDULE

LU/372/17/CLE

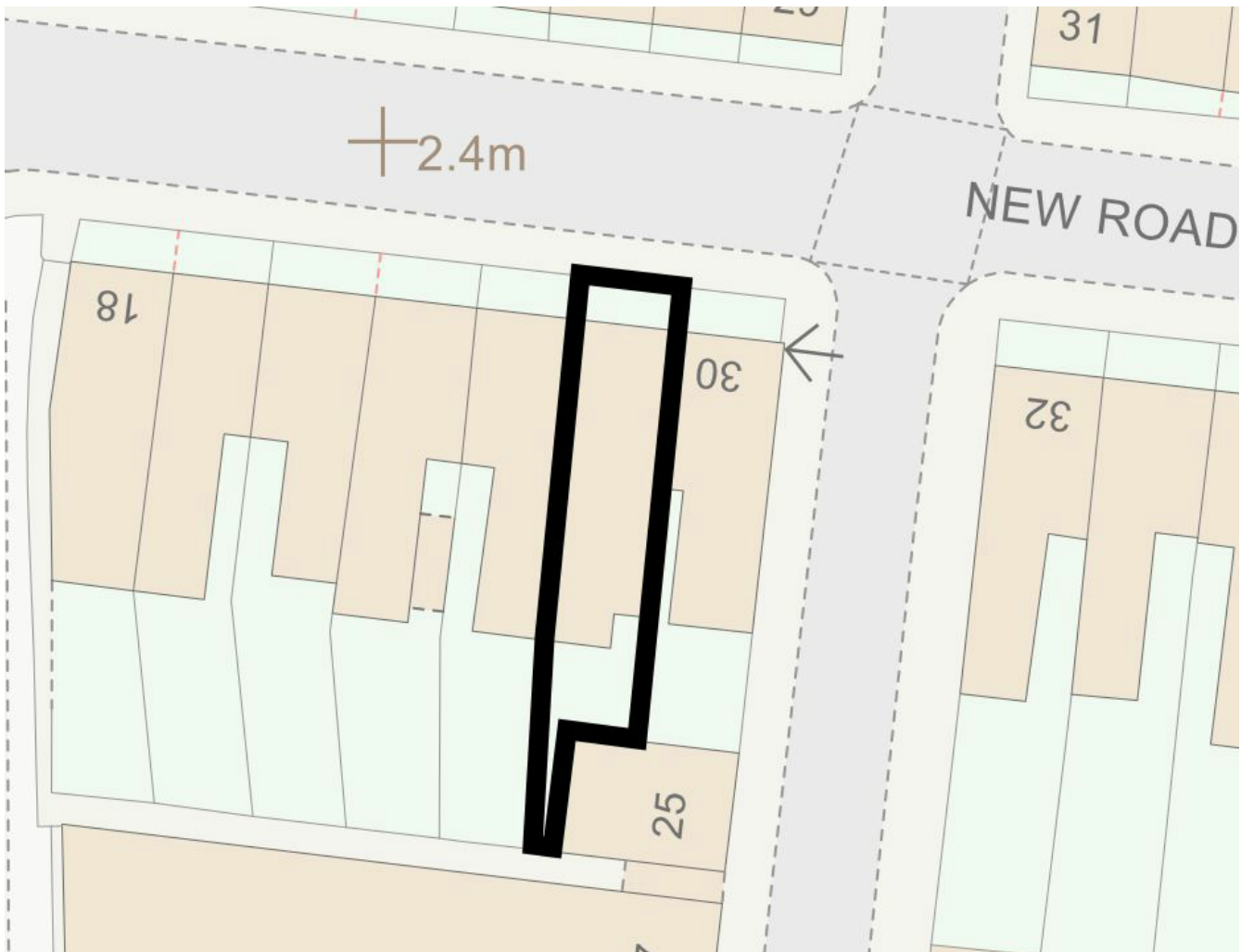
Use as two residential flats at site referred to as Flats 1 & 2, 28 New Road, Littlehampton, West Sussex BN17 7QZ.

SECOND SCHEDULE

Site referred to as Flats 1 & 2, 28 New Road, Littlehampton, West Sussex BN17 7QZ.

EXTENT OF USE

The ground and first floors of the existing property known as Flats 1 & 2, 28 New Road, Littlehampton, West Sussex BN17 7QZ.



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