

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** R/148/21/CLP**LOCATION:** 7 Sterling Parade
The Street
Rustington
BN16 3DR**PROPOSAL:** Lawful development certificate for the proposed minor changes to the layout of residential units as proposed in granted prior approval application (Ref: R/310/16/PD) to include 1 additional unit. Providing a total of 6 No.Units in the scheme.**DESCRIPTION OF APPLICATION**

This application seeks the creation of an additional residential unit within and office space conversion, bring the total number of units up to 6.

RELEVANT SITE HISTORY

R/310/16/PD	Prior Notification under Class O for change of use from Office (Class B1(a)) to a dwellinghouse (Class C3)	Prior Approv not req 20-03-17
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REPRESENTATIONS**Representations Received:****CONSULTATIONS****Consultations Responses Received:****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;

- Class O of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2015 (as amended), which pertains to the conversion of office space to habitable space.

And,

- Section 192 of the Town and Country Planning Act 1990, pertaining to Lawful Development Certificates

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSION

INFORMATIVE

This application seeks an additional residential unit within an office to residential conversion, it is understood from the application details submitted that the works have already begun and that the subdivision of the space and development is well underway. It is not fully understood if the works have been completed as no evidence has been submitted to this effect. The flats will accord with National Space Standards; it is noted that at least one of the flats does not have access to natural light within a bedroom.

Historically a Prior Notification application was submitted in 2016 and subsequently approved under R/310/16/PD, for the conversion of the first floor of the building at 7 Sterling Parade from office space to residential, the conversion sought 5 units and plans and elevations were supplied at the time to aid this authority to make a decision although legislation did not require them to be submitted at the time. As of the 1st August 2021 floor plans for conversions under Class O were required to prove access of habitable rooms to natural light.

Various possibilities have been considered as part of this report, as after consideration of this case, it was realised that there were many facets to determine.

PERMITTED DEVELOPMENT UNDER CLASS O

From the details submitted I believe that the applicant wished to convert the first-floor offices to 6 residential units under Part 3 Class O of the General Permitted Development Order. This states that;

Permitted development

O. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted

O.1 Development is not permitted by Class O if;

(b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order;

(i) on 29th May 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date, when it

was last in use;

- (d) the site is, or forms part of, a safety hazard area;
- (e) the site is, or forms part of, a military explosives storage area;
- (f) the building is a listed building or is within the curtilage of a listed building; or
- (g) the site is, or contains, a scheduled monument.

Conditions

O.2.(1) Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to;

- (a) transport and highways impacts of the development,
- (b) contamination risks on the site,
- (c) flooding risks on the site,
- (d) impacts of noise from commercial premises on the intended occupiers of the development, and
- (e) the provision of adequate natural light in all habitable rooms of the dwellinghouses, and the provisions of paragraph W (prior approval) apply in relation to that application.

(2) Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

The application form states that the existing use which this application relates is Class C3 - residential dwellinghouses, with no change to the proposed use, and the submitted planning statements makes reference to the "to regularise this as built". It is therefore fair to assume that the works have been completed and the space now consists of residential units (C3)

As such the addition of one residential unit does not fall under Part 3 Class O of the GPDO and is therefore considered not to be permitted development and as such requires the submission of an application for full planning permission.

LAWFUL DEVELOPMENT PROPOSED USE

This application seeks the conversion of an office space into 6 residential units, from 5 residential units under Part 3, Class O of the General Permitted Development Order. The applicant has stated that they wish to regularise the as built scheme and make reference to the existing use class being C3 - residential dwellinghouses.

The Town and Country Planning Act 1990 sets out that;

(1) If any person wishes to ascertain whether;

- (a) any proposed use of buildings or other land; or
- (b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) 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.

(3) A certificate under this section shall;

- (a) specify the land to which it relates;
- (b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
- (c) give the reasons for determining the use or operations to be lawful; and
- (d) specify the date of the application for the certificate.

(4)The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

The proposed addition of one extra unit conflicts with relevant sections (1)(b) in that the works are existing and are considered not to be permitted development and as such require the submission of an application for full planning permission.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 15th June 2021 the development 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 192 of the Town & Country Planning Act 1990 by reason of conflict with part (1)(b) of that Act and conflict with the relevant criteria within Schedule 2 Part 3 Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.

FIRST SCHEDULE

**The proposed creation of an additional unit is considered to fall under Schedule 2 Part 3 of the GDPO
The development hereby refused was determined under the following plans;**

- Location Plan SK01 Rev A**
- Proposed First Floor Plan PL01**
- Planning Statement**
- Application Form**

SECOND SCHEDULE

7 Sterling Parade, The Street, Rustington

EXTENT OF USE

The creation of an additional residential unit within office to residential conversion.

R/148/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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