

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

REF NO: WA/80/19/CLE

LOCATION: Walberton House
The Street
Walberton
BN18 0PJ

PROPOSAL: Lawful development certificate for existing 2No self-contained flats.

DESCRIPTION OF APPLICATION

The application seeks to a Certificate of Lawfulness for existing 2 No self-contained flats.

SITE AND SURROUNDINGS

Walberton House as built comprised a large mainly single-storey dwelling, with two self-contained flats attached which were used to house a Gardener/Chauffeur and a Housekeeper together with their families.

RELEVANT SITE HISTORY

WA/30/19/PL	Application for change of use from part of accommodation of Walberton House to separate self-contained dwelling. This application affects the character and appearance of the Walberton Village Conservation Area and the setting of a Listed Building.	ApproveConditionally 21-06-19
WA/38/17/PL	Change of use of a store to a single dwelling with a porch extension & one additional window to north & west elevations & to east facing roof slope (Renewal of consent WA/6/14). This application affects the character and appearance of the Walberton Village conservation area	ApproveConditionally 11-09-17
WA/6/14/	Change of use of store to single dwelling with porch extension & alterations. This application is a departure from the development plan	ApproveConditionally 09-05-14

WA/90/10/	Change of use of a store to a single dwelling with a porch extension and one additional window to north and west elevations and to east facing roof slope.	App Cond with S106 03-02-11
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WA/41/10/	Change of use of a store to a single dwelling with a porch extension.	Refused 15-09-10
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Appeal: Dismissed
27-07-11

Relevant planning history noted.

REPRESENTATIONS

Representations Received:

Walberton Parish Council

No objection from Walberton Parish Council.

Arun District Conservation Area Advisory Panel:

This application will not have an impact on the Conservation Area.

Comments on Representations Received:

Noted.

CONSULTATIONS

Consultations Responses Received:

ADC LEGAL RESPONSE

I am of the opinion that the application should be granted as there is no good reason to refuse it.

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 private dwelling for a continuous period of 4 years.

FIRST SCHEDULE

Use of the 2 No self-contained flats as indicated on the plans;

- Location Plan, Floor Plan, Block Plan
- Ground Floor Plan

SECOND SCHEDULE

Walberton House, The Street, Walberton, West Sussex, BN18 0PJ which is shown on the plan to this certificate, within the area edged boldly in black.

EXTENT OF USE

2 No existing self-contained flats.

WA/80/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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