

Development Management – Delegated Officer Report

Application Number: AWDM/0487/26

Recommendation: – Refuse

Site: Flat 136 Montague Street Worthing West Sussex

Proposal: Application for Certificate of Lawfulness for building works completed to alter the internal layout of the first floor flat.

Last visited: 10.02.2026

Neighbours Checked: N/A

Additional Neighbours Notified: N

Site and Surroundings

The application relates to a 2-storey mid-terraced property located on the north side of Montague Street within Town Centre Secondary Frontage area and within the Montague Street Conservation Area. The ground floor of the property is in use as a hot food takeaway and there is a self-contained flat at first floor level. There are hot food takeaways/restaurants on either side of the application site in Montague Street, and a modern residential mews development 'Clarendon Mews' to the rear. The site is located within Flood Zone 2/3 and is susceptible to surface water flooding.

Proposal

The application is for a Lawful Development Certificate which seeks to establish the lawfulness of the building operations that have been carried out resulting in the internal layout of the property as a 2-bedroom self-contained flat, described in the application form as follows:

First floor flat, approved under AWDM/1892/21 - SELF CONTAINMENT OF FIRST FLOOR FLAT INVOLVING INSTALLATION OF SEPARATE FRONT ENTRANCE AND REPLACEMENT SHOPFRONT

Works were completed to change the internal layout to bathroom and kitchen at the rear but not to change the front room to a lounge/kitchen.. Condition 01 of the above approval refers

It is understood that the internal layout of the flat was not carried out in accordance with the approved plans under planning permission AWDM/1892/21, as required by condition 1.

The application has been made on the grounds that the building works were substantially completed more than four years before the date of the application.

The following evidence has been provided in support of the application:

- Drawing No. 0226:1b entitled 'Alterations to layout' includes site location plan, block plan, floor plan as approved (AWDM/1892/21), floor plan as built
- 'Receipt of payment' dated 14.01.2022
- 'Receipt for payment' dated 20.01.2022
- Estate agent details with floor plan, undated

Relevant Planning History:

05/0985/FULL - Change of use from a restaurant (Class A3) to takeaway (Class A5)
STATUS: CCN 7th December 2005.

AWDM/1892/21 - Self containment of first floor flat involving installation of separate front entrance and replacement shopfront
STATUS: APP 18th January 2022.

AWDM/0024/26 - Variation of Condition 1 (Approved plans) of AWDM/1892/21 to change the unit from one-bedroom to two-bedrooms.

ORIGINAL DESCRIPTION: Self containment of first floor flat involving installation of separate front entrance and replacement shopfront
STATUS: Application Refused 18th March 2026.

Consultations

None relevant

Representations

None

Planning Assessment:

The relevant consideration is a matter of fact and degree whether the evidence submitted in support of the application demonstrates on the balance of probability that the building operations were substantially completed more than four years before the date of the application and therefore exempt from enforcement action, with the burden of proof on the applicant. The planning merits are not relevant in making a decision.

The specific operations to be determined are "*Works were completed to change the internal layout to bathroom and kitchen at the rear but not to change the front room to a lounge/kitchen. Condition 01 of the above approval refers*" (question 8)

The relevant planning permission was granted on 18 January 2022. Two receipts have been provided. The first is for payment received on 8 January 2022 for 'inside work' before planning permission was granted. The second receipt is dated 20 January 2022 for 'inside work' but with no date given for when that payment was received. The works for which payment were made are not clear in the evidence and so it is not clear whether these relate to the works that the certificate is sought for.

The estate agent's details provide a floor plan which differs in layout to the approved and as built plans provided. This is undated. It shows the layout as existed prior to planning permission being granted for the self-containment of the first floor flat.

On the basis of the evidence provided, this is insufficient to demonstrate on the balance of probabilities that the operations carried out were substantially completed in January 2022, as is claimed.

There are no dated photos of the completed works and no statutory declarations from the owner and/or builder have been submitted to confirm what works were carried out and when.

Furthermore, making no changes to the pre-existing bedroom and living room layout is a breach of condition 1 of AWDM/1892/21 and that will not be immune from enforcement action until 10 years from the date of the breach.

The onus is on the applicant to provide sufficient evidence and they have failed to do so.

The relevant date for determining whether the statutory time limit for taking enforcement action has expired is the date of the application of the CLEUD and the evidence provided is not sufficiently precise and unambiguous to justify the grant of a certificate.

Recommendation:

REFUSE for the reason:-

On the basis of the available evidence the Local Planning Authority is not satisfied that on the balance of probability the building operations as described in the application were substantially completed more than four years before the date of this application. The evidence provided is not sufficiently precise and unambiguous to satisfy the burden of proof required under Section 191 of the Town and Country Planning Act 1990 and as such has not achieved immunity from enforcement action.

Is recommendation contrary to letter(s) of representation? N

Case Officer: Rebekah Hincke

Date: 12.08.2026

Authorised by: Louise Prew

Date: 13/08/2026