Development Control – Delegated Officer Report

Application Number: AWDM/0497/24 Recommendation: Approve

Site: 45 Church Walk, Worthing

Proposal: **Lawful Development Certificate for existing use as a single dwellinghouse.**

Site visit: 04.06.2024

Neighbours checked: N/A

Additional neighbour notifications: N

Site and Surroundings

The site comprises a two storey semi-detached property located on the north side of Church Walk, to the west of its junction with Windsor Road. It is set within a row of other matching pairs of semi-detached properties, some of which have been divided into flats. The application relates to the entire property at No.45 comprising of both ground and first floor levels.

Proposal

The application is for a Lawful Development Certificate which seeks to establish the lawfulness of the existing use of the property as a single dwelling house. The application has been made on the grounds that the use has existed for more than 4 years.

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

- Site Location Plan
- Block Plan
- Existing plans
- Previous layout plans
- Supporting Statement from agent
- Invoice for works dated 17.10.2019
- Statutory Declaration from owner dated 05.08.2024

Relevant Planning History:

WB/0171/51/FULL Conversion of existing dwellinghouse into two units of accommodation, 45 Church Walk. Approved 15.05.1951

WB/0183/64 Alterations to convert existing single dwelling into 2 self-contained flats, 45 Church Walk. Approved 21.03.1964

Consultations:

The Council's Business Rates Officer has confirmed that two flats have been separately banded for Council Tax purposes since 1.4.1993 and was not aware that the flats have been converted into a single house.

The Council's Electoral Services team have confirmed that electors have been registered in both No.45 (since 2020) and No.45A (since 2019).

The Council's Street Addressing Officer has confirmed that no application had been received to notify that the premises had been/ or about to be converted into one residential dwelling.

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 use has existed for 4 or more years and is therefore exempt from enforcement action, with the burden of proof on the applicant. The planning merits of the use are not relevant in making a decision.

The planning history indicates the use as 2 flats appears to have existed since the 1960's and the evidence from consultees would point towards the premises having remained as 2 separate flats for the relevant period.

However, the supporting statement states that the use as a single family dwelling has existed since the flat was purchased in 2019. Plans have been provided showing the building as a 4-bedroom single dwellinghouse and although the site visit confirmed that utilities are also still separated, the layout and occupation of the entire property would currently fall within the definition of use class C3 as a single dwellinghouse.

Whilst there has been some ambiguity based on the original evidence provided in the application and the consultee responses, the applicant has sought to address this by providing an invoice from NP Construction Services Ltd, and, most notably, a Statutory Declaration has been provided.

The submitted evidence provides an indication that works to remove individual flat entrances, internal partitions, and first floor kitchen were invoiced and paid for in October 2019, although this does not specify precisely when those works were carried out.

However, the strongest evidence provided in support of the application is in a Statutory Declaration from the owner which states that the two flats were amalgamated in October 2019 and that the entire property has been occupied by the owner as a single dwelling since that time.

Although the evidence from consultees points towards a contradiction in the applicants account, the statutory declaration is sufficiently precise in this instance to justify the grant of a certificate on the balance of probability.

Recommendation

ISSUE CERTIFICATE

On the basis of the available evidence the Local Planning Authority is satisfied that on the balance of probability the existing use of the property as a single dwelling house (Use Class C3) as indicated on drawing no. DS/WRIGHT/01 REV 1 has existed for more than 4 years and as such has achieved immunity from enforcement action and is lawful in planning terms.

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

Case Officer: Rebekah Hincke Date: 17.09.2024

Authorised by: Louise Prew Date: 18/09/2024