ECE Planning

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Planning Department
Adur District Council
The Shoreham Centre
Pond Road
Shoreham-by-Sea
West Sussex
BN43 5WU

05 January 2023
Ref: SL/Let/P1997

Dear Sir / Madam

Ref: Certificate of Lawfulness for the retention of the extension at 4 Grange Road, Southwick, Brighton, BN42 4DQ.

On behalf of the applicant, Mr Bacon, we herby submit a Certificate of Lawfulness application for the retention of the existing development at 4 Grange Road. We wish to obtain a Certificate pursuant to Section 191 of Town and Country Planning Act 1990 (as amended) confirming the retention of the existing development which has been constructed and in use for a period in excess of 10 years.

The application submission comprises the following:

- Application Forms;
- Site Plan;
- Location Plan;
- Elevations and Floorplans
- Statutory Declaration- Smart Partitions
- Materials Invoice- PDF Roofing Limited

The Site

The site is situated within The Grange Industrial Estate to the west of Grange Road (refer to Figure 1). The railway line is to the rear (north) of the site with residential dwellings further beyond. The immediate area consists of office / industrial buildings to the west, residential dwellings to both the north and east and Shoreham Port to the southern side of Albion Street.

The building is a large commercial building of 2 storeys with a single storey (first floor) extension to the north of the building on the existing building footprint. The extension forms the first floor white element of the building. Please refer to Figure 1 further detail.

The building is currently in occupied by Smart Partitions who has let the space since 2013. The occupier needed additional space, therefore the works to form the extension were carried out between October and December 2016.

Car parking is located to the west of the building and vehicular access to the site is directly to the south west of the building along Albion Street.

Managing Director
Chris Barker MATP MRTPI
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Adam King RIBA
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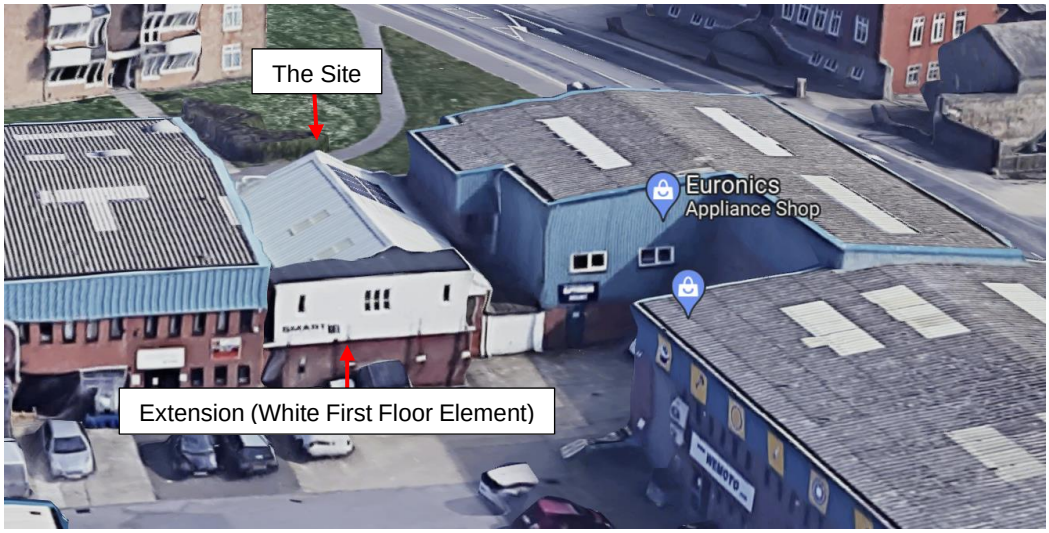

Figure 1- The Site (Source: Google Maps)

Planning History

A search of the Council's planning application register has been undertaken and revealed that there are no planning applications relating to the site.

The Development

The Certificate of Lawfulness application seeks to confirm that the first floor extension was constructed on the site for a period more than 4 years ago and is therefore exempt from enforcement action and deemed to be lawful.

The location and size of the existing first floor extension is demonstrated within the drawings which have been submitted with this application below (Figures 3 and 4).

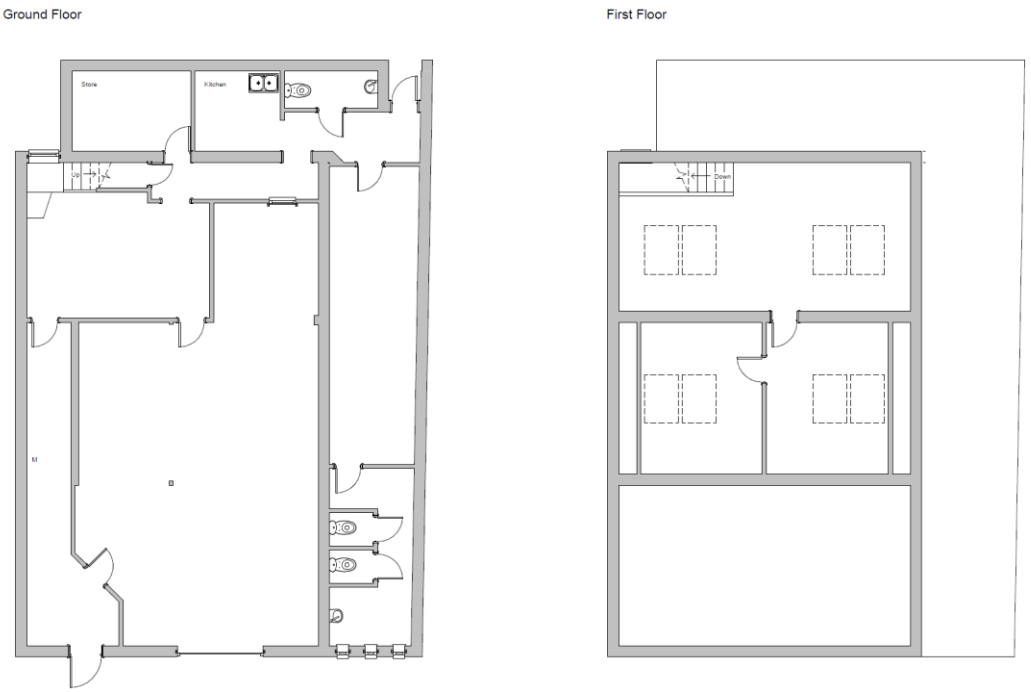

Figure 2- 4 Grange Road prior to the extension



Figure 3- 4 Grange Road as existing

Lawful Operations

Lawful development is defined at Section 191 of the Town and Country Planning Act 1990 (as amended) as development against which no enforcement action may be taken, whether because they did not involve development, require planning permission, or because the time for enforcement action had expired.

Under Section 171B of the Act 1990, it confirms that where structures have been in-situ for a period exceeding 4 years, no enforcement action may be taken, and in the case of any other breach of planning control, no enforcement action may be taken if a period of 10 years has expired.

The application is further supported by a signed Statutory Declaration from the Managing Director at Smart Partitions (the former tenant). The signed Declaration clearly and unambiguously states that the existing development has been in situ since December 2016. Further supporting information has been provided which shows the evidence of some materials bought for the roof extension.

Lawful Development Compliance

As noted earlier, Section 171B of the 1990 Act specifies time limits where the local planning authority may take enforcement action against unregulated development. If action is not taken within those prescribed time limits the breach of planning control becomes “immune” from planning enforcement action.

The onus is on the Applicant to demonstrate if a structure has been in-situ for a period exceeding 4 years or in the case of any other breach, for a period exceeding 10 years.

The Courts have held that the relevant test of evidence submitted with Certificate of Lawfulness application is 'the balance of probability', therefore Applicants are not required to discharge the stricter, criminal burden of proof namely 'beyond reasonable doubt'. The Courts have also held that the Applicant's own evidence does not need to be corroborated by other evidence in order to be accepted.

Therefore, in the case of an application for an Existing Certificate of Lawful Use and Development, if a local planning authority does not hold any evidence itself, contradictory to the application or indeed make the applicant's version of events less than probable, then guidance and the Courts state that there is no reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a Certificate on the balance of probability.

In this regard, it is asserted that the signed Statutory Declaration together with invoicing evidence of materials used and current photo at Figure 1 are sufficiently precise to demonstrate that the existing use has been on the site for a period exceeding 10 years and the first floor extension has been built for a period exceeding 4 years.

It is asserted that the test of "balance of probability" has clearly been satisfied and therefore a Certificate of Lawfulness should be granted.

If you have any further queries or require further information, please contact me on 01903 248777.

Yours sincerely
ECE Planning



Chris Barker MATP MRTPI
Managing Director
Encs

Appendix A- Statutory Declaration- Smart Partitions

SMART PARTITIONS

DRY LINING · SCREEDING · PLASTERING

Unit 4 Grange Road
Southwick
West Sussex
BN42 4DQ

01273 595979
info@smartpartitions.co.uk
www.smartpartitions.co.uk

15th December 2022

Dear sir/ madam

Re: Unit 4 Grange Road, Southwick, Brighton, BN42 4DQ

My company has been the occupier of the above address since 2013 and I can confirm I built over the small rear ground floor extension as I needed more space. The works were carried out the works between October & December 2016 and immediately incorporated the space into the rest of the unit.

Enclosed is some evidence of materials bought for roof the extension, we are metal fixers and dry liners and carried out the rest of work ourselves. It was a small lightweight addition.

This statement is true and correct.

Yours faithfully

Hamzah Karkar
Managing Director

Appendix B- Materials Invoice- PDF Roofing Limited

PDF Roofing Limited

Flat Roofing Specialist

INVOICE & GUARANTEE

Invoice to	Date	Invoice No
Hamzah Smart Partitions UK Limited 4 Grange Road Southwick, Brighton BN42 4DQ	9th December 2016	1617121

Re: Flat roofing works to Office at Address above

Description	Qty	Total price
To supply and fit 3 layers of felt comprising of: - 1 layer fibreglass felt - 1 layer 2mm torch on - Cap sheet 4.5 mm mineral Fully bonded to all the flat, upstanding and flashings	1 lot	£1,500.00
Invoiced net VAT (20.00%) **Invoiced Total**		**£1,500.00** **£300.00** **£1,800.00**

Payment to			
Account in name of	PDF Roofing Ltd	National Ins. No.	JT 27 87 71 D
Bank	Lloyds	UTR Number	939 781 7295
Sort Code	30-64-15		
Account No.	27303760		

Guarantee

This work is guaranteed for 10 years against faulty workmanship and materials and covers the replacement or repair of same.

Damage caused by abuse/misuse, third parties, subsidence or other act of nature is excluded from this guarantee.

Any repairs or rework must be carried out by Peter Fraser or his designated operative.

In the event of a problem please contact:

Peter Fraser
4 Sweetlands, Keymer, Hassocks, West Sussex, BN6 8LZ
Tel: 07783 465979 **Email: pete.fraser@me.com**

VAT Reg No. GB 194 8356 62 **Company Reg No. 9653657**