

Expiry: 6/7

Development Management - Delegated Officer Report

Application Number: AWD/0568/26

Recommendation – Refuse

Site: Crows Nest, 33a New Road, Shoreham BN43 6NB

Proposal: Application for Certificate of Lawfulness for Existing Use of the basement as a self-contained unit.

Date of site visit: 19/6 – from the street only

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

This application relates to a mid terraced three storey property on the north side of New Road. Externally there are steps up to the front door and steps down to the lower ground floor which includes an entrance door.

The site is in the Shoreham conservation area but is not a listed building.

This application for a Certificate of Lawfulness for an Existing Use (CLEUD) seeks to establish the lawfulness of the self-containment of the lower ground floor and its continuous use as a self contained flat for at least the last 10 years.

The evidence submitted in support of the application comprises: -

- Floorplan of basement
- The application form states the use began on 1/2/2013
- An email indicating that the basement flat was registered as a separate address (33A) on 11th July 2013.
- Undated sales particulars including floorplan and confirmation that the applicant bought the property in 2021 (email dated 20.5.2026)
- Land Registry entry from May 2021 confirming that No. 33 is in the ownership of the applicant.
- Applicant's agent's email dated 9.6.26 stating that the basement tenant has a direct debit with OVO.
- Email dated 17/6/26 from applicant's agent stating *'The property was purchased as a whole with the basement flat as a separate rented unit with the proportion of the Council Tax as part of the rent.'*

Relevant Planning History

None.

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Consultations

Legal: Consider that insufficient evidence has been presented to demonstrate that the claimed existing use is lawful.

For an unauthorised use to become immune from planning enforcement action, the unauthorised use must have been exercised continuously and without interruption for ten years.

The application states that the use began on 1 February 2013 and there should be supporting evidence demonstrating the continuous use, such as

- Council tax or electoral records
- Invoices/bills or receipts from services such as water, electricity, gas or phone
- Statutory declarations from the applicant, any former owners, tenants and neighbours
- Dated photographs

The following have been received:

- Undated sales particulars which refer to the existence of a self-contained flat. It is not considered that this assists with continuous use of that flat.
- The official copy of the register of title for 33 New Road from 2021. This demonstrates who the registered proprietor was at that point in time but does not assist with continuous use of the flat.
- An email stating the current tenant has OVO as their electricity supplier. Again, this doesn't assist in establishing a continuous 10 year use.
- An application form which relies on the flat being given it's own address in 2013. Again, this doesn't assist in establishing a continuous 10 year use.

Refers to further information being received by the Officer (LLPG email) and advises that the PPG states that *"A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence."* Advises that it is not considered that the evidence changes anything.

Representations

2 neighbours summarised as:

No concern as long as the necessary Building Control/Building regulations were met when the property/created the two titles and Adur/the applicant can upload the signed-off compliances regarding fire safety, Gas Safety Certificate (relevant to upstairs only I believe), EICRs for each property, and that

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ventilation and extraction regulatory requirements are met for the application and size of the property, is there sufficient purge and continuous background ventilation flow to sufficiently create a habitable space?

The property does need to address the excess waste issue with insufficient bins for two households at present. However, will 6 bins fit outside if it achieves two titles? It is suggested by councillors that New Road will be getting an extra bin per title for food waste. Waste management is an ongoing issue for the whole of New Road which is already cluttered with bins and looks (and smells terrible) with an alternate week bin collection. Adur needs to look at this as a whole in the smaller streets.

So long as it conforms to safety and environmental legislation I have no objection but I've been bothered by excessive rubbish. The gulls get at sacks left next to the bins and it ends up blowing all over the street and my front garden. They need two sets of bins for the two flats

Relevant Legislation

S55 of the Act relating to 'the meaning of development'.

PPG makes it clear that the onus of proof in a CLEUD application is placed firmly upon the Applicant. The Applicant's own evidence does not need to be corroborated by independent evidence, although corroboratory statements or declarations may assist. If the local planning authority has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good 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 probabilities".

The Levelling-up and Regeneration Act 2023 changed the time limits for planning enforcement action set out in the S171B(2) of the Act to 10 years for all forms of development.

Planning Assessment

The relevant consideration is a matter of fact and degree whether the evidence submitted demonstrates on the balance of probability that the self-containment of the basement took place at least 10 years ago and has been in continuous occupation since.

The planning merits of the self-containment works are not relevant to the decision.

Site Background

There are no formal planning records relating to the property, No. 33A or No. 33.

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The Applicant's Case

Section 55(3)(a) of the Act sets out that the use as two or more separate dwelling houses in a building previously used as a dwelling house constitutes development.

The applicant's case is that the basement has been a self-contained, continuously occupied separate unit for the last 10 years or more. Their case relies upon the registration of the basement as a separate address in 2013. The applicant has only owned No. 33, including the basement, since 2021 and has not been able to provide any corroborating evidence that predates her ownership. The land registry details provided relates only to No. 33.

The sales particulars show a second internal staircase. It is not clear if this is to the basement. It is not shown on the floorplan of the basement accompanying the application.

The evidence provided since the applicant took ownership does not demonstrate a continuous 10 year use as a separate flat as detailed in the drawing accompanying the application.

Conclusion

Insufficient evidence has been provided to demonstrate continuous 10 year use of the basement as a separate and self contained flat. The Council is not satisfied therefore that the claimed existing use is lawful.

Recommendation: REFUSE

The Local Planning Authority is not satisfied that the self-containment of the basement occurred 10 years or more ago or that it has been occupied continuously as such for 10 years. The existing self-containment of the basement is therefore not lawful for planning purposes.

Is recommendation contrary to letter(s) of representation? No

Case Officer: MOK

Date: 23/6

Authorised by: Peter Barnett

Date: 23 June 2026