Development Control – Delegated Officer Report

Application Number: AWDM/0019/23 **Recommendation – APPROVE**

Site: **4 Grange Road, Southwick**

Proposal: **Application for a Certificate of Lawfulness for Existing Development for first floor rear (West) extension.**

Site visit: Assessed using Google Maps and Earthlight

Proposal, Site and Surroundings

The property is a commercial building located on the Grange Industrial Estate. It has two storeys with a flat roofed first floor extension at its western end which was allegedly constructed in 2016.

The application seeks a Certificate of Lawfulness for that extension which was constructed without planning permission.

The application is supported by a letter from the occupiers of the property, Smart Partitions, which states that the extension was constructed between October & December 2016. There is also an invoice and guarantee dated 9th December 2016 from the roofing company that carried out the work.

Planning Assessment

The statutory framework covering "lawfulness" for lawful development certificates is set out in section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

Under Section 171B of the Act 1990, it states: "*Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed*."

The submitted evidence suggests that the work was completed in 2016, some 6 years before the application was submitted. This claim is further supported by aerial photographic evidence from the Council's Earthlight mapping system which shows that the extension was not present in 2015 but was in 2018, which reinforces the likelihood that it was constructed at least 4 years ago.

Consequently, on the balance of probability, the existing development was carried out more than 4 years ago and is now exempt from enforcement action. The Certificate of Lawfulness can therefore be granted.

Recommendation

Issue a Certificate of Lawfulness for Existing Development.

Reasons for Recommendation

The proposal constitutes 'development' as defined by Section 55 of the Town and Country Planning Act 1990, but is exempt from enforcement action by reason, on the balance of probability, of having been constructed more than four years ago.

Case Officer:	Peter Barnett	Date: 26 January 2023
Authorised by:	Gary Peck	Date: 26 January 2023