Development Management - Delegated Officer Report

Application Number: **Recommendation – Approve**
AWDM/0515/13

Site: **5 Broad Reach, Shoreham-By-Sea, West Sussex BN43 5EY**

Proposal: **Application for a Certificate of Lawfulness for existing use of former live/work unit as a single dwelling.**

Date of site visit: 17 May 2013

Neighbours checked: N/A

Additional neighbour notifications: N/A

Proposal, Site and Surroundings

This is an application for a Certificate of Lawfulness where the planning merits of the development cannot be taken into account. The application is seeking a Certificate in respect of the use of a three storey live-work unit as a dwelling only.

The use of the property as a live-work unit is required by Condition 35 of the original permission for the Ropetackle development in 2002. The applicant has submitted a Planning Statement which states that he purchased the property in January 2006 and has used it since that time as a single dwelling. A non-domestic rating return was returned by the applicant to the Valuation Office Agency (VOA) in June 2006 stating that the property was being used purely for residential purposes. The form is included as evidence as is a Notice of Deletion of the office entry in April 2010.

The applicant has also submitted a sworn affidavit to confirm that he has lived at the property since January 2006 (7 years) and the ground floor has never been used for business purposes since then. The affidavit clarifies that the notice of deletion was not issued earlier because each rating list lasts for 5 years and the list for April 2005 – March 2010 was therefore closed and could not be amended. Finally, there is an email from a neighbour at 6 Broad Reach confirming that the ground floor has been in residential use on the many occasions that she has visited the property.

Relevant site history

SU/216/02 - Mixed Use Development Inc. Residential, Retail, Office, Community Facility Cafe/Bar; Car Parking, Access Rd & River Walk/Cycleway. Condition 35 restricts the property to use as a live-work unit.

ADC/0259/09 – 10 Broad Reach - Application for certificate of lawfulness for existing use of live-work unit wholly and exclusively as a dwellinghouse (use Class C3) approved

AWDM/0425/12 – 8 Broad Reach - Change of use from a live-work unit to a single dwellinghouse (retrospective) approved

AWDM/0790/12 – 9 Broad Reach - Change of use from a live-work unit to a single dwellinghouse (retrospective) approved

AWDM/1025/12 – 2 Broad Reach - Application for a Certificate of Lawfulness for existing use of former live/work unit as a dwelling only refused

Consultations

None

Representations

None received

Relevant Planning Policies

Not applicable

Planning Assessment

Under section 191 of the Town and Country Planning Act 1990 (as amended), the Council is obliged to grant a Certificate if, on the balance of probability, the use of the building wholly and exclusively as a dwellinghouse commenced more than 4 years ago and has continued since then (thereby being outside the scope of enforcement action under section 171B of the Act).

The submitted evidence shows that the building was never used as an office or live/work unit by the applicant since he purchased it in 2006. The property has been continuously occupied since then and this is supported in documentation submitted with the application.

On the balance of probability, therefore, that the property has been in continuous use as a single dwelling house for four years from the date of the breach, a Certificate can be issued.

Recommendation

APPROVE for the reason:-

The applicant has shown, on the balance of probability, that the property has been in continuous use as a single dwelling house for four years from the date of the breach and therefore has satisfied the requirements of section 191 of the Town and Country Planning Act 1990 (as amended).

Case Officer: Peter Barnett Date: 23 May 2013

Authorised by: Gary Peck Date: 24 May 2013