Expiry Date:27/3, ppa agreed to 7/5/20

Development Control – Delegated Officer Report

Application Number: AWDM/0081/20 **Recommendation – ISSUE CERTIFICATE**

Site: **41 Riverside Road, Shoreham West Sussex BN43 5RB**

Proposal: **Application for a Lawful Development Certificate for existing use as a residential dwelling (C3).**

Site and Surroundings

The site relates to half of a detached building set back from the road between houses at 39 and 43 Riverside Road. The building is accessed down a garage width track between the frontage houses. It has the appearance of a single storey building from Riverside Road and includes double garage doors facing down the access.

Originally built as 'boathouse' with a large slipway on the north side to the river the site operates in two halves with the eastern half and slipway/grounds continuing to operate as a commercial boatyard and the western half of the building in use as a dwelling including the converted first floor.

Access to the dwelling is via a 'side entrance' to the right of the garage doors and down a long corridor out to the rear yard area , past the boathouse and in through the kitchen door which faces north onto the slipway. There is a kitchen and study at ground floor together with bedroom, bathroom and storeroom. Stairs give access to a 'living room'. At the time of the site visit all rooms were laid out exactly as per the submitted plans and were fully kitted out to function as a dwelling.

Proposal

The application seeks to obtain a Lawful Development Certificate for the existing use of part of this building as a separate, self-contained dwelling.

The building in question is known as 'The Boathouse', 41 Riverside Road. The western half of the ground floor and the converted roofspace above it is used as an individual self-contained dwelling. The eastern half of the building continues to be used as part of the commercial boat business.

The evidence provided makes it clear that identified parts of the subject building have been in continuous use as an independent dwelling house since August 2015 up to the present time.

The applicant considers that the evidence submitted *'sufficiently demonstrates, on the balance of probability, that the use of the building as a separate home is*

lawful and has been operating in this fashion continuously for longer than the 4-year qualifying period'.

Relevant Planning History:

SU/197/00 – Ten floating pontoons (0.6m wide and 6.0m long) attached to existing plus one pontoon (11.9M Wide & 2.45M Long) to north side. Granted 3.1.2001

SU/48/97 - Additional dormer (with obscured glass) on west side of proposed chalet dwelling (Amendment to SU/29/97). Granted 7.4.97

SU/29/97 - Detached chalet-style dwelling with integral garage. Granted 10.3.97

SU/196/96 - Detached three-bedroom chalet-style dwelling with balconies at front and rear and attached garage. Refused 20.1.97

SU/194/93 - Redevelopment (of Boathouse, etc.) with 5 One-Bedroom Flats & 6 Three-Bedroom Maisonettes with wet Moorings (Outline Incl. siting details). Refused 10.1.94. Appeal Dismissed.

SU/159/92 - Outline Application for 10 two-bedroom terraced dwellings and wet moorings, with access road, (incl details of siting & access). Refused 8.3.93. Appeal Dismissed.

SU/142/91 – Outline Application for 12 three-bedroom houses, wet moorings & boat hoist (Including redeveloping site of Boathouse etc. & reclamation of mud flats). Refused 17.12.91. Appeal withdrawn.

SU/243/87 - Redevelopment with new Boathouse and residential accommodation above. Granted 16.2.88

SU/140/84 - Construction of hardstanding for dinghy and car parking. Granted 18.9.84

SU/65/84 - New self contained flat built over existing single storey 'Boathouse' Building. Refused 5.4.84. Appeal Dismissed.

SU/10/84 - Outline Application for the conversion and extension of Boathouse to form Boathouse with flat over. Refused 21.2.84

SU/15/79 - Garage to south of Boathouse. Granted 5.3.79

Consultations:

Legal:

'I would agree that a lot of the documents provided do not confirm residential occupation and I think it's quite clear that Mr Turley was using the address as a postal address prior to the works to create a separate dwelling. As he owns (and

still owns) the remainder of the site this is not surprising but provides evidence that is less compelling.

That said, there is some documentary evidence suggesting that there has been residential occupation for over 4 years. The photographs show the completed works in 2015. The accountant has confirmed that VAT on the electricity bills were on the domestic rate (although this evidence has been provided by the accountant by way of a letter rather than a stat dec). There is no evidence to counter Mr Turley's assertions (neighbour comments relate to the planning use and concerns for the area more generally rather than any suggestion that he's not been living there for 4 years, and he only needs to satisfy us on the balance of probabilities. Taking everything into account, I think we can grant the certificate.

It's my view that the certificate can be granted for the dwelling notwithstanding that it is accessed through another part of the building of which the dwelling forms part and across part of the quayside. This access is not really any different to a communal area in a block of flats/shared driveway and would not preclude a certificate from being granted on this basis.

The property itself is self-contained inasmuch as it contains all the amenities required for day to day living and can be described as such.'

Representations: Two representations received from 43 and summarized as follows:

From the rear of 35, 37, 43 and 45 the boathouse is hidden behind high fencing and only the roof is visible.
It has been partly lived in for 15 years by the present owner without obtaining any permission.
Only its use as a boathouse is known.
If this is granted there is concern that the building will be developed. Any increase in footprint or height would be harmful to neighbours. Permission should only be given if conditioned to ban future works.

Relevant Planning Policies: None

Planning Assessment

The applicant seeks to establish that the western half of this building is lawful in planning terms as a single dwelling unit and no enforcement action may be taken on the basis that it has become immune from such action through the passage of time.

The planning merits of the case are not material considerations. In order for a Certificate of Lawfulness to be granted the Local Planning Authority must be satisfied that on the balance of probability the property has been in existence as a single dwelling unit for 4 or more years (i.e. the '4-year rule' as set out in Section 171B of the Town and Country Planning Act 1990 [as amended]).

The application includes 2 Statutory Declarations, bank statements, car insurance details, credit card bils, utility bills, TV licence details and Amazon order delivery details. A letter from the applicant's GP also confirms the site as the applicant's given address for at least the last 4 years.

Evidence from a site visit inside the building established the layout as described in the application drawings. Following legal advice, the shared door and shared corridor at the eastern end of the building and access over the slipway, none of which is within the red edge, to gain entry to the unit itself, does not disqualify it as a separate and self contained dwelling. The driveway access and slipway do not form part of the red edge either.

Taking the submitted supporting evidence into account, it is considered that there is sufficient evidence, on the balance of probability, to corroborate the claim that the dwelling shown on the plans and as currently laid out has existed as a separate dwelling unit for 4 or more years and is therefore immune from enforcement action by the Council.

Recommendation

ISSUE CERTIFICATE

On the balance of probability it is considered that sufficient evidence exists to demonstrate that the property edged in red on the location plan has been used as a 1-bedroom dwelling for more than 4 years.

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

Case Officer:	MOK	Date: 6/5/2020
Authorised by:	Peter Barnett	Date: 7 May 2020