Expiry Date - 18/11/2024

Development Control – Delegated Officer Report

Application Number: AWDM/1223/24 Recommendation – APPROVE

Site: 3 Cambridge Road Worthing West Sussex

Proposal: Application for a Lawful Development Certificate for an Existing use of the loft space as a self-contained Flat (known as Flat 7).

Neighbours checked: N/A

Additional neighbour notifications: N

Site and Surroundings

The site comprises a three-storey semi-detached property located on the south side of Cambridge Road, to the west of its junction with Christchurch Road. It is set within a row of other matching pairs of semi-detached properties, some of which have been divided into flats. The application relates to the top floor of the property at No.3 comprising the loft space known as Flat 7.

Proposal

The application is for a Lawful Development Certificate which seeks to establish the lawfulness of the existing use of the loft space as a separate flat. The application has been made on the grounds that the use has existed for more than 4 years prior to April 2025.

The following evidence has been provided in support of the application:

- Photographs of refurbishment (18/09/2023 – 06/10/23)
- Invoices 1 and 2 of refurbishment (18/09/2023 and 27/09/2023)
- Company Let Agreement (23/10/2023)
- Electrical Safety Report (01/03/2018)
- Electrical Certificates (Parts A and B) (01/03/2018)
- EPC (15/02/2018)
- Paul Hughes Final Notice Papers (Court Case) (10/08/2023)
- Paul Hughes Tenancy Letter from new owners (10/02/2018)
- AST Agreement (01/05/2022) (Inhabitancy 04/02/2018 – 14/03/2022)
- Affidavit Ian Boyd (28/08/2024)
- Location Plan
- Existing Plans and Elevations
- Planning Statement
- Application Form

Relevant Planning History:

None

Consultations:
Private Sector Housing: Evidence on file shows flat 7 in the loft space.

Representations:
None

Planning Assessment
The relevant consideration is a matter of fact and degree whether the evidence submitted in support of the application demonstrates on the balance of probability that the use has existed for 4 or more years (prior to April 2024) and is therefore exempt from enforcement action, with the burden of proof on the applicant. The planning merits of the use are not relevant in making a decision.

Evidence within the submission of the supporting documents including the Energy Performance Certificate for 2018 (assessed on 18/02/2018), emphasises that the loft conversion has created a separate flat which has been inhabited from this date.

The Electrical Safety Conditions Report further provides evidence that the unit was in the described use on the date of 01/03/2018. This is due to the information provided showing evidence of the conversion of the loft space as a separate unit. This is also supported by the Electrical Certificates Part B pgs. 28-35 which explain that Flat 7 has been converted and can facilitate the separate use.

The tenancy emails and letters which are issued in 2018 provide evidence of the unit being inhabited by Mr. Boyd from the start of his tenancy in February 2018.

Whilst the evidence on habitation of the flat is clear from 2022 with the new contracts etc that have been submitted, prior to this there is limited information available. A sworn affidavit has been signed explaining that the resident of the flat (No.7) has lived in the property since May 2014 through to March 2022 meaning the unit has been inhabited since before the requirement of 2020.

The submitted court case provides evidence of the inhabitancy of the unit in 2023 and dating back to 2018 when the tenancy began.

The further information submitted in the following are considered to provide evidence of the inhabitation of the unit in question from 2022. The two invoices for works dated 18th and 27th September 2023 and accompanying photos (18/09/2023 – 06/10/2023); Letting agreement (23/10/2023); AST Agreement (01/05/2022). These provide evidence that the unit in question has been inhabited since 2022 or being refurbished which is permitted.

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With the submission of the information and in particular the statutory declaration is sufficiently precise in this instance to justify the grant of a certificate on the balance of probability.

Recommendation

ISSUE CERTIFICATE

On the basis of the available evidence the Local Planning Authority is satisfied that on the balance of probability the existing use of the loft space as a separate unit as indicated on drawing no. 2024/104 has existed for more than 4 years prior to April 2025 and as such has achieved immunity from enforcement action and is lawful in planning terms.

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

Case Officer: Finlay Gardner Date: 06/12/2024

Authorised by: Louise Prew Date: 06/12/2024