



Smith
Simmons
& Partners



WRITTEN STATEMENT IN SUPPORT OF CERTIFICATE OF LAWFUL USE

Lawful use of café, sea school office and chandlery as a single two-bedroom residential dwelling.

Lansdale Marine, 3 - 4 Marine Works, The Street,
Itchenor, Chichester, West Sussex, PO20 7AL

FEBRUARY 2024





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CONTENTS

- 1.0 INTRODUCTION
- 2.0 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 191
- 3.0 PLANNING HISTORY
- 4.0 ENCLOSURES
- 5.0 CONCLUSION



1.0 INTRODUCTION

- 1.1 Smith Simmons & Partners has been instructed by Mr. P Lansdale to submit an application for a Lawful Development Certificate for the existing use of the ground floor premises at 3-4 Marine Works as a 2-bedroom residential unit.
- 1.2 This application is made under s191 of the Town and Country Planning Act 1990 in respect of the use of the existing premises at 3-4 Marine Works. The premises was converted to facilitate residential use in late 2014/early 2015 and has been occupied on a continuous basis for the last 4 years since 05-05-2019 (date detailed in signed tenancy agreement for Mr E Clery and Ms P Winter).
- 1.3 The site at Marine Mews was built in 2006 as a redevelopment of an old garage that had latterly been used to sell and repair outboard engines, plus small boat sales. Following the completion of construction large inflatable rib sport boats became popular and the business relocated to Birdham where there was better boat storage and manoeuvring available leaving the Marine workshop empty.
- 1.4 Subsequently Chichester Marine was redeveloped providing more marine facilities including chandlery other sales and engineering businesses. The sales unit at Itchenor was introduced but it became clear that a marine business in Itchenor was not viable.
- 1.5 A sea training school was started within the premises with a coffee shop facility, with toilets and a kitchen installed in units 3 and 4, but both uses failed following the opening of a sea school in Chichester and another café in Itchenor with better views. The decision was taken by the owner to allow a member of staff to temporarily live in the building which was empty. The space was then used for storage before again reverting to residential use on short term lets which has in turn led to continuous residential occupation for in excess of 4 years.



2.0 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 191

- 2.1 This application for a Certificate of Lawful Existing Use or Development (CLEUD) is made under section 191 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- 2.2 Section 191 of the 1990 Act provides for anyone (not just a person with a legal interest in the land) to apply to the Local Planning Authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying the lawfulness, for planning purposes, of an existing operation on, or use of land, or some activity being carried out in breach of a planning condition.
- 2.3 In this case an application under section 191, the lawfulness, for planning purposes, is made for an existing residential use of the premises as a 2-bedroom unit of accommodation.
- 2.4 The application is made on the grounds that the residential use of the premises began more than 4 years prior to the date of this application and that the use of the premises falls under use class C3 of The Town & Country Planning (Use Classes Order) 1987 (including amendments 2005, 2006 and 2010).
- 2.5 The development should be deemed lawful by virtue of the passage of time and therefore immune from enforcement action.
- 2.6 The onus of proof is on the applicant and will be determined upon the test of “the balance of probability.”
- 2.7 The evidence shall be precise and unambiguous to grant a certificate “on the balance of probability.”



3.0 PLANNING HISTORY

- 3.1 The most relevant recent planning history comprises the previous permitted uses which were implemented.

WI/19/02679/ELD Use of shop as two-bedroom residential unit. Refused 03-01-2020.

Refused for the following reason:

'On the basis of the evidence submitted with the application and that available from the Council's own records it is considered there is insufficient information to demonstrate that, on the balance of probabilities, the use as stated in the First Schedule at the address stated in the Second Schedule, has taken place for a four-year period prior to the District Council receiving the application.'

13/01828/FUL Proposed change of use from marine outboard service centre to cafe, with associated alterations. Sea school office and chandlery uses to be retained. Approved 28-10-2013.

05//03287/FUL- Within approval WI/04/02006/FUL incorporate west block rear terrace into flat 2 and provide covered area to flat 1 rear terrace. Approved

04/02820/FUL- Erection of single storey temporary sales office building (10 m x 5 m) during redevelopment of site. Approved

04/02006/FUL- Within approval WI/03/01691/FUL reduce 2 no. three bedroom flats to 2 no. two bedroom flats to provide additional marine business space. Approved

03/01691/FUL & 03/01690/CAC- Demolish existing building and redevelop to provide 3 no. houses, 2 no. flats and 2 no. marine usage business units. Approved with S106

02/03252/FUL & 02/03313/CAC- Demolish existing building and redevelopment to provide 3 no. houses, 2 no. flats and 2 no. marine usage business units. Approved.



4.0 ENCLOSURES

4.1 The application is accompanied by the following information:

Letter and statutory declaration from builder

Utility Bills

Tenancy Agreements

Tenant Statements

Neighbour Statements

4.2 Letter from Mr Stephen Dace dated 18th October 2019 stating that he converted 3-4 Marine Works into a two-bedroom flat in the later part of 2014 and early 2015.

During the course of the previously refused application a statutory declaration was received from Mr Stephen Dace dated 23rd December 2019 stating that he converted 3-4 Marine Works into a ground floor flat in the later part of 2014 and early 2015. These are resubmitted in support of this application.

4.3 **Utility Bills**

- Council Tax Bill dated 27-03-2023 covering the period 01-03-2021 to 01-04-2022.

- Electricity Bill for period 02-07-20 to 02-07-20 for P Winter referring to a previous account balance. The bill is dated 04-07-2020 prior to Mr Jones' occupation.

-Electricity Bills for J Waldron for periods 01--03-2021 to 31-03-2021 and 05-01-2024 to 05-02-2024. These relate to his first and most recent bills.

4.4 **Tenancy Agreements**

May 2019 Mr E Clery and P Winter commencing on 05-05-2019 ending on 04-05-2020.

01-08-2020 Mr G Jones commencing on 01-08-2020 ending 01-02-2021.

31-03-2021 Mr J Waldron signed 08-03-2021 commencing on 01-03-2021 on monthly basis.

28-07-2021 Miss Brooke New commencing 01-07-2021 on month-to-month basis co-habiting with Mr Waldron.

Undated Mr J Waldron and Mr D Graffham commencing on 07-02-2022 to 06-02-2023.

08-12-2023 J Waldron and D Graffham commencing 07-02-2023 to 06-02-2024.

4.5 **Tenant Statements**



E Clery and partner P Winter occupied property between 05-05-2019 and 04-05-2020.

G Jones occupied flat between 01-08-2020 and 01-02-2021 as sole residence.

J Waldron occupied property since 01-03-2021 to present.

4.6 Neighbour Statements

The plan at figure 1 below details the position of neighbour's properties in relation to the application site. It highlights the application premises and labels the dwellings from where supporting statements, based on the occupier's knowledge of the use of the application property, have been provided.

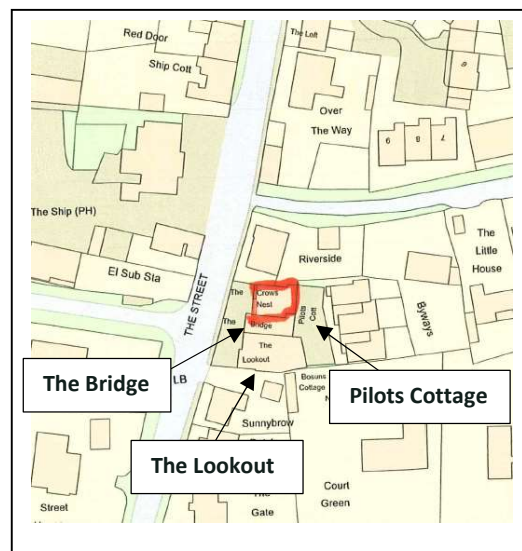


Figure 1
Application Site and Location of Neighbouring Dwellings

G Smith neighbour at The Bridge has lived in the neighbouring property since 02-02-2009 and confirms the application property has been occupied and used solely for residential accommodation since May 2019.

M Wombwell neighbour at Pilots Cottage has lived in the neighbouring property since December 2017 confirming the application property has been occupied and used solely for residential accommodation since May 2019.

R Bailey neighbour at The Lookout has lived in the neighbouring property since May 2014 confirming the property has been occupied and used solely for residential accommodation since May 2019.

4.7 Additional evidence

This includes Chichester LPA case officer visiting site on 20-12-2019 and confirming the property is fully furnished and in likely occupation comprising an open plan kitchen/diner/lounge, 1 no. bathroom and 2 no. bedrooms. and that the building contains primary living facilities to facilitate a high standard of living. This is referred to in the officer report for application WI/19/02679/ELD.



5.0 CHRONOLOGICAL ANALYSIS OF EVIDENCE

- 5.1 Start of 4-year period timeline 5th May 2019 with occupation commenced for E Clery and partner P Winter and corroborated by statement from both tenants and agreement until 04-05-2020. The 3-month gap between tenancy agreements is covered by the electricity bill for period 02-07-20 to 02-07-20 for P Winter indicating she didn't move out until start of July 2020. Although their tenancy agreement ended on 04/05/20 they didn't actually vacate the property until 07/07/2020.
- 5.2 G Jones tenancy agreement commencing on 01-08-2020 ending 01-02-2021 endorsed by statement.
- 5.3 Mr J Waldron's occupation commenced on 01-03-2022 and continues to current day. This is corroborated by Tenancy Agreements and Tenancy Statements. Mr Waldron's occupation has occasionally been shared with other tenants. On 01-07-2021 Miss Brooke New commenced occupancy on month-to-month basis co-habiting with Mr Waldron until 02-09-2023. D Grafham has also co-habited with J Waldron since 07-02-2023 and he also currently resides at the premises.
- 5.4 Whilst the tenancy agreement dates do not fully accord with the dates within the tenant statements, there has inevitably been a delay in provision of signed agreements following occupation which is not unusual.



6.0 CONCLUSION

- 6.1 The evidence submitted by way of the statements from residents and neighbours, tenancy agreements and utility bills demonstrate that the premises has been used as a residential dwelling for in excess of 4 years. The documentation and supporting information submitted with this application is sufficiently precise and unambiguous to indicate that the premises have been used as a single 2-bedroom flat for residential purposes for in excess of 4 years.
- 6.2 On this basis, it is concluded that on the balance of probability, the evidence presented justifies the grant of a certificate.