
Site Address:	55 Horndean Road, Emsworth, PO10 7PU		
Proposal:	Application for certificate of lawfulness relating to existing use as residential.		
Application No:	APP/17/00088	Expiry Date:	29/03/2017
Applicant:	Mr J Rice & Ms K Raymakers		
Agent:	Mr N Smith	Case Officer:	Tina Pickup
	George Ide LLP		
Ward:	Emsworth		

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

1 Site Description

The application site relates to a substantial Edwardian style detached 'dwelling' located on the west side of Horndean Road set within a large plot. It has an in and out vehicular access serving a large graveled frontage area with detached pitched roofed garage. Mature hedging provides the frontage boundary with garden to the rear.

At the site visit made on 8/2/2017 the applicant showed me round internally and it is clearly currently a standard family dwelling with no evidence of any former guest house use.

2 Planning History

15455/11 - Change of use from private dwelling to guest house - permission granted 21st August 1980

99/64350/000 - Detached double garage to south elevation, PERM,21/12/1999

3 Proposal

The application is submitted as a Section 191 application for a Lawful Development Certificate to establish whether the existing use of the building is lawful. In this instance it is claimed that the building has been occupied as family home/residential dwelling for over 10 years i.e. as a Class C3 Dwellinghouse.

It seems that the change of use permission in 1980 to use the site as a Guest House (a C1 use) was implemented for a few years, but no permission ever granted to return the use to a C3 dwelling. The current owners are selling the property and the Solicitors in the exchange have noted this lack of proof of a lawful residential use - hence this application is to regularise the lawfulness of the site.

4 Legislation

- 4.1 Relevant legislation and guidance:
Town and Country Planning Act 1990
Town and Country Planning (Use Classes) Order 1987 (as amended)
Planning Practice Guidance, 2014

5 Policy Considerations

None - Not relevant to Certificate of Lawful Use applications

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

Summary:

Comment:

7 Planning Considerations

- 7.1 The PPG advises that the applicant is responsible for providing sufficient information to support an application and the relevant test for determining applications is on the balance of probability. The PPG states:

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

- 7.2 The relevant 10 year time period for the current application relates to 01 February 2007 until 01 February 2017 (validation date). This evidence submitted in support of the Certificate is as follows:

Statutory Declaration by applicants Mr Rice and Ms Raymakers, stating they have continuously used the property as a residential dwelling since 2000. Signed and witnessed by a Solicitor.

Letter from neighbour at 57 who has lived there since 2003 stating that in all that time No 55 has been occupied by Mr Rice and Ms Raymakers as a private residential dwelling and not a guest house

Letter from neighbour at 51 who has lived there since 1982 stating that since Mr Rice and Ms Raymakers bought No 55 in 2000 have used it as a private residential dwelling and not a guest house. Also confirms that previous occupants, Mr & Mrs Head occupied No 55 as a private dwelling from approximately the mid 80's.

Letter from neighbour at 63 who has lived there since 1996 stating that since Mr Rice and Ms Raymakers bought No 55 in 2000 have used it as residential dwelling and not

a guest house. Also confirms previous owners Mr & Mrs Head occupied No 55 as a private dwelling

Current Estate Agents Strutt & Parker layout details

Portsmouth Water bill dated 29 November 2016

Havant Borough Council Tax bill dated 10 March 2016 indicating 55 Horndean Road is a Band G dwelling

8 Assessment of Evidence/Conclusion

- 8.1 With respect to the submitted evidence this relies on local neighbour knowledge, all of which have lived there for over the relevant 10 year period. There is no reason to doubt these statements. No contrary letters have been received as a result of the neighbour notification process of this application. However the council tax bill and water bill are current bills and do not show the required 10 year period.
- 8.2 Separately, a detailed study of the microfiched documents of the 1999 planning application (99/64350/000) reveal that planning application for a detached double garage (that is now built) was submitted by Mr & Mrs Head on Householder Application Forms and the case officer notes at the time from their site visit describe the site as a 'substantial detached....dwellinghouse'. There are no notes indicating that the site was in use as a Guest House. Therefore, on the balance of probabilities, from the LPA's own records it would appear that the site was in use as a private dwelling in 1999. Since this is in excess of the 10 years required to prove the lawful use, then, together with the submitted neighbour statements evidence, there is no reason to doubt the lawful use as a C3 dwelling.
- 8.3 It is considered in this case, on the balance of probability, that the use has been taking place over the relevant 10 year period at the site. A Certificate of Lawfulness can therefore be issued.

10 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/17/00088

Havant Borough Council, as Local Planning Authority, certifies that on 01 February 2017 the use described in the First Schedule to this certificate in respect of land described in the Second Schedule and as shown edged red on the submitted 1:1250 site location plan was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

It appears to the Local Planning Authority on the balance of probability that the uses described in the First and Second Schedules on the submitted 1:1250 site location plan, have taken place for a continuous period of at least ten years up to the date of the current application.

The Authority has considered evidence and information submitted by the applicant and the planning history of the site.

FIRST SCHEDULE:

This Certificate relates to the following use:

(i) use as C3 residential dwellinghouse

In association with (i) above, the use in the area edged red on the submitted 1:1250 site location plan is considered to have been demonstrated over the relevant 10 year period.

SECOND SCHEDULE:

For the purposes of the first schedule (i) above, this certificate relates to the land edged red on the submitted 1:1250 site location plan at 55 Horndean Road, Emsworth, PO10 7PU