
Site Address: 10 High Street, Emsworth, PO10 7AW
Proposal: Application for certificate of lawfulness relating to conversion of first floor office space to 2No. dwellings.
Application No: APP/15/00259
Applicant: Mr Ganatra
Agent: Mr Irani
Citadel Design & Development Ltd
Ward: Emsworth

Expiry Date: 13/05/2015
Team: Team 2
Case Officer: Tina Pickup

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

1 Site Description

The site relates to the first floor of No 10 High Street which is a three storey building located on the east side of the High Street. The ground floor and first floor are currently vacant and were formerly occupied by Barclays bank ie A2 use on the ground floor. The first floor was apparently last used as offices by Barclays but it is unclear from the submission as to whether this was on the basis of A2 financial services offices or B1(a) offices. I have not gained internal access to the site but from an external inspection the second floor appears to be in residential use - certainly there are curtains/blinds up at some of the windows.

2 Planning History

Numerous applications for signs, air con units, windows etc but none of particular relevance to this application

3 Proposal

This is an application for a Certificate of Lawful Development for a proposed use, seeking to claim that it would be permitted development to convert the first floor to 2 No dwellings. An existing and proposed first floor layout has been submitted showing how 2 flats would be created, but no supporting evidence in terms of previous use of the premises. Further information was requested, but not forthcoming.

4 Policy Considerations

Policy considerations are not relevant when determining Certificate of Lawful Use applications - they are a matter of fact based on evidence.

5 Statutory and Non Statutory Consultations

None

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: At least one site notice exists - 1

Statutory advertisement: Not applicable.

Number of representations received: 0

Summary:

Comment:

7 Planning Considerations

The determination of this application is a matter of whether the proposed development meets all the criteria of the relevant Class of Part 3 of Schedule 2 of the new consolidated version of the Town and Country Planning (General Permitted Development) (England) Order 2015 which was issued and came into effect on 15th April 2015. However it is not clear from the submission documents under which Class of development the application is being made. Clarification has been requested from the agent, but no response received.

Class G would be relevant if the first floor use was last used as an A2 'financial services' office (often defined as having visiting members of the public) but Class O would be relevant if the first floor was last used as B1(a) offices. However no evidence or information has been submitted to clarify how the first floor was previously used and whether it was class A2 or B1(a).

If the application is seeking a Class G determination then the wording of the regulations imply that the building can have up to 2 flats – but as a whole building this site includes the upper floor, which appears to already be in use for residential purposes. This element of doubt and uncertainty over the compliance with class G is such that there is insufficient information to make a legal determination either way.

If the application is seeking a Class O determination then this Class requires the submission of a prior approval before the commencement of development, to consider transport/highways issues; contamination and flooding issues. The submitted Certificate of Lawful development is therefore considered an inappropriate application type.

As a Certificate of Lawfulness application the onus is on the applicant and/or agent to submit sufficient evidence to enable an appropriate legal determination to be made as to whether the proposed works are permitted development or not. However sufficient information has not been forthcoming and therefore this Certificate cannot be issued.

8 Conclusion

It is considered that there is insufficient evidence and too much ambiguity over the existing/last first floor use which is critical in making a legal determination under the correct Class of Part 3 of Schedule 2 of the new consolidated version of the Town and Country Planning (General Permitted Development) (England) Order 2015. Therefore, without further information and clarity this application is recommended for refusal based on lack of information.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **REFUSE A CERTIFICATE OF LAWFUL USE** for application APP/15/00259 for the following reasons:

- 1 On the basis of the limited information available to the Local Planning Authority it is not sufficiently clear whether the proposed conversion to 2 flats on the first floor would constitute permitted development under either Class G or Class O of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015. Insufficient information has been submitted to enable a legal determination of this application.