

Delegated Application Report

Address: 46 Southdown Road

Application No: 201366/CLE

Proposal: Use of converted garage outbuilding as a residential annex (C3 use) to 46 Southdown Road.

Case Officer: Connie Davis

Agreed Target Date: 15/02/21

Site Description

46 Southdown Road is located on the western side of Southdown Road. The site is located at the end of the road and set back from the highway. It is positioned on a circular turning area. The site contains the main property (no 46) and two residential flats that gained retrospective planning permission.

The application site is not listed, nor in a conservation area and is known as 'Annex'.

Description of Use or Development

Certificate of lawfulness for the existing use of an outbuilding as a two-storey (ground/ first floor) residential annex (C3 use). The annex extends at the back of an existing double garage, and above the garage. It is stated that the annex has been used by the former nanny of the owner of the main house (46 Southdown Avenue).

In order for the certificate to be granted, it needs to be demonstrated that the outbuilding has been in continuous use for four years prior to the application being submitted to the Local Planning Authority. As such, the relevant time period is 1st October 2016 - 1st October 2020.

Relevant Planning History

200177/CLE - Use of converted garage outbuilding as a residential annex (C3 use) to 46 Southdown Road - Application Refused due to insufficient evidence being provided.

030148 - Front, side and rear extension to garage with pitched roof to replace flat roof - Application Permitted

010019 - Use of property as 1 x 3 bedroom house and 2 x self-contained flats (Retrospective application) - Application Permitted

980041 - Demolition of chalet bungalow and garage/outbuildings: erection of 8 two bedroom flats, parking and widened access - Application Refused

991881 - Single Storey Front Extension and Change of Use of Ground Floor to Children's Nursery - Application Withdrawn

Relevant Planning Policy and Guidance

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and if so, be granted a certificate to that effect.

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means

that enforcement action cannot be carried out to the development referred to in the certificate. However, the certificate will not protect from enforcement action by the planning authority if the specified use or development is then changed 'materially' without a planning application for it.

The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

The NPPG states that “The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use (section 191 of the Town and Country Planning Act 1990), 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”.

Consultations (as per previous application 200177)

No consultation responses were received for this application. However, the following were received for the previous application for this certificate (200177/CLE) which was refused. As the certificate applied for is the same as previously, the responses on file have been used once again to aid the assessment of the application:

Planning Enforcement

Planning Enforcement investigated the use of the annex (above a garage) at the address in 2006 under case number 06/00596. The case was closed in 2009 when it was determined that the breach of planning control was not expedient to pursue.

Council Tax

Our c.tax records show an annexe is already separately banded for c.tax purposes and has been banded since 05.10.2008. The main house has been banded since at least 01.04.1997.

Electoral Registration

Current - 2019

46 Southdown Road

X0 Residents

46A Southwood Road

X2 Residents

2018 - 2017

46 Southdown Road

X1 Residents

46A Southwood Road

X1 Residents

2016 - 2010

46 Southdown Road

X2 Residents

46A Southwood Road

X1 Residents

Officer Comment: The case officer is not aware that the annex is called 46 or 46A Southdown Road, but should be listed as 'Annex'.

Legal

Considers that sufficient evidence has been provided to grant the certificate.

External consultation:

Not required for applications of this type.

Information Submitted

Location Map

20/007/01 - Block Plan

20/007/02 - Existing Floor Plans

Supporting Letter from the agent dated 30th September 2020

Letter from RBC dated 9th Dec 2004

Bank statement dated 7th January 2005

Marriage certificate dated 29th January 2005

SSE electricity bill dated 22nd January 2019 - Covering period 5th April 2016 - 11th January 2019

SSE bill covering period 5th April - 3rd July 2017 dated 14th July 2017

Thames Water Bill covering period 1st April 2018 - 31st March 2019

Thames Water bill covering period 1st April 2019 - 31st March 2020

Thames water bill covering period 1st April 2020 - 31st March 2021

Reading Borough Council Tax bill dated 4th March 2020 covering the years 2020/21

Received 1st October 2020

APPRAISAL

The applicant has submitted a lawful development certificate to establish the use of an outbuilding as a residential annex (C3 use) for a continuous period of 4 years prior to the submission of the application. The relevant time period for which evidence has to be provided for is 1st October 2016 - 1st October 2020.

The applicant has submitted various forms of evidence in their submission, such as individual bills and personal documents. Complete bills have been provided covering the relevant time period (mixture of electricity and water bills), overcoming the concerns of the previously refused application. Although tenancy agreements or a statutory declaration have not been provided (but the list of tenants has been provided in the supporting statement - with the same occupier being in residence since October 2008), it is considered that complete utility bills in this instance do sufficiently demonstrate that the building has been **occupied**; coupled with complete evidence that the annex has been separately banded for council tax purposes for this time too. This documentation (bills and Council Tax) has been specifically addressed to 'Annex'. As such, it is not considered that the building was being deliberately concealed in this respect.

It is noted that other forms of evidence have been provided, such as a marriage certificate showing the address of the annex and a letter from Reading Borough Council regarding the enforcement investigation at the site back in 2004, these are dated outside of the relevant 4 year time period for the purposes of this application so cannot be used to aid the assessment.

Conclusion

In the absence of information or evidence to contradict or make the applicant's version less probable, on balance, it is considered that the premises known as 'Annex' at 46 Southdown Road, RG4 8RN, which is a two storey (ground and first floor) outbuilding, which extends at the back of the existing garage and above the garage (but excludes the double garage) has operated as a dwellinghouse (C3 use) for a period of 4 years and is therefore immune to enforcement action. It is therefore considered a Certificate of Lawfulness should be granted.

Recommendation - GRANT certificate

Informatives

Positive and Proactive

1:1250 Location Plan (Not to scale)

