

Delegated Application Report**Target Date: 23/04/2020****Address:** 31 Harlech Avenue, Emmer Green**Application No:** 200291**Proposal:** Certificate of lawfulness for the use of 31a Harlech Avenue as a self-contained dwelling.**Case Officer:** Anthony Scholes**Site Description**

The property is located on the eastern side of Harlech Avenue. This certificate relates to the ground floor self-contained unit referred to as 31a Harlech Avenue.

A site visit by the Officer confirmed the layout as shown on the submitted plans.

Description of Use or Development

The existing use of the property as 2 x dwellings (class C3).

Relevant Planning History

86/TP/0876 - Two storey side extension to form ground floor granny annexe with 4th bedroom and en-suite bathroom over. REFUSED 6 October 1986

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 is 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 planning permission. The planning merits of 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 applicants version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability’.

Consultations

Council Tax

The internal Customer Services Property Inspector made the following comments:

- Our c/tax records show this property is split into two separate dwellings, what's known as 'The Annexe Flat' has been separately banding for C.tax purposes since 28.09.2000 & the main house has been banded since at least 01.04.1997.

Electoral Registration

The electoral registration shows the following information:

Date Period	Registered residents
2005 - 2013	31 Harlech - 2 Residents The annexe - 1 Resident
2014	31 Harlech - 1 Residents The annexe - 0 Residents
2015	31 Harlech - 0 Resident The annexe - 0 Residents
2016	31 Harlech - 1 Residents The annexe - 2 Residents
2017	31 Harlech - 2 Residents The annexe - 2 Residents
2018	31 Harlech - 1 Residents The annexe - 2 Residents
2019 - Current	31 Harlech - 2 Residents The annexe - 2 Residents

Environmental Health

No objections.

Legal

No objections.

Submitted Evidence

The evidence supplied includes a large number of tenancy agreements for each dwelling, Council tax records, invoices, and EPC certification letters.

Analysis of Evidence

For the purpose of a change of use from a C3 house the applicant must demonstrate that the change of use has been in place for 4 years subject to no enforcement action having been taken on the property.

It is considered that the evidence provided, coupled with the consultation responses received from the electoral registration, council tax and legal departments, is sufficient to determine that this property has been used as two self contained C3 (dwellings) for a continuous period of at least 4 years. As such it is recommended that a certificate of lawfulness (existing) be granted.

Recommendation

Grant

