

DELEGATED PLANNING APPLICATION REPORT

Ward: Park

App Ref: 230581/CLE

Address: 30 Cumberland Road, Reading, RG1 3LB

Proposals: Use as large HMO (Sui Generis) for 10 years for 10 occupants (amended description).

Case Officer: Marcie Rejwerska

Date received (valid from): 28 April 2023 **Target Decision date:** 18 August 2023 (ext.)

1. SITE DESCRIPTION

The application site comprises an end-terrace 3-storey dwelling on the eastern side of Cumberland Road. The immediate surrounding area is predominately residential, with a Sikh Temple neighbouring the property. The application site is not listed nor in a conservation area. The property is not within an Article 4 area (HMOs).



Image of 30 Cumberland Road taken from Google Maps on 24 July 2023.

2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks to demonstrate the existing use of 30 Cumberland Road as a 6 bedroom large HMO (Sui Generis Use Class).

3. RELEVANT PLANNING HISTORY

172202 - Proposed rebuilding and allocation of disused garden building to rear of existing dwelling at No 30 Cumberland Road for addition to and for use as food preparation area as an extension to the Sikh Temple at No 30A Cumberland Road - Application permitted

4. LEGAL AND PLANNING POLICY CONTEXT

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'.

5. CONSULTATIONS

Reading Borough Council, Electoral Registration - Response received on 17/05/2023

- Number of electors at the property:

Year	No. of electors
2023	2
2022	2
2021	2
2020	2
2019	2
2018	2
2017	3
2016	4
2015	5
2014	2
2013	1

Reading Borough Council, Environmental Health - Response received on 23/05/2023

- No comment to make on this application.

Reading Borough Council, HMO Team - response received on 07/06/2023

- Our records show that the property held a HMO licence from Feb 2012 until Feb 2017 when there was a change of ownership of the property.
- A new licence application for 9 people was made in July 2018 and was granted in Oct 2019 until October 2021. A further HMO licence application was made in October 2021 and the property currently holds a HMO licence for occupation by up to 9 persons forming 6 households until October 2024.

Reading Borough Council, Council Tax - Response received on 19/05/2023

- We have this property banded as a single dwelling for CT purposes, banded since at least 01.04.1997
- We do have this property marked as a HMO for CT purposes since 21.06.2013

Reading Borough Council, Enforcement - Response received on 17/05/2023

- Having checked our records (which go back to 2003) I can see that we currently have an open planning enforcement investigation into an unauthorised change of use of the property to a Sui Generis HMO (E22008) following a consultation from the HMO Team. However, we have no further information on file.

Reading Borough Council, Legal - Response received on 07/06/2023

- I agree that the applicant has provided sufficient evidence of occupation over the required 10 year period.

6. SUBMITTED EVIDENCE

The applicant provided the following evidence to support the use of 30 Cumberland Road as a large HMO (Sui Generis Use Class):

- Tenancy Agreement Room 1, dated 21 June 2013, received 20 June 2023
- Tenancy Agreement Room 1, dated 10 April 2015, received 20 June 2023
- Tenancy Agreement Room 1, dated 7 August 2020, received 20 June 2023
- Tenancy Agreement Room 2, dated 5 August 2013, receive 20 June 2023
- Tenancy Agreement Room 2, dated 8 August 2014, receive 20 June 2023
- Tenancy Agreement Room 5, dated 8 November 2013, receive 20 June 2023
- Tenancy Agreement Room 2, dated 22 September 2016, receive 20 June 2023
- Tenancy Agreement Room 2&5, dated 7 March 2017, receive 20 June 2023
- Tenancy Agreement Room 3, dated 21 June 2013, received 20 June 2023
- Tenancy Agreement Room 3, dated 25 March 2017, received 20 June 2023
- Tenancy Agreement Room 4, dated 31 March 2014, received 20 June 2023
- Tenancy Agreement Room 4, dated 4 October 2018, received 20 June 2023
- Tenancy Agreement Room 4, dated 4 October 2019, received 20 June 2023
- Tenancy Agreement Room 4, dated 29 July 2022, received 20 June 2023
- Tenancy Agreement Room 6, dated 25 July 2013, received 20 June 2023
- Tenancy Agreement Room 6, dated 30 June 2016, received 20 June 2023
- Tenancy Agreement Room 6, dated 20 July 2019, received 20 June 2023
- Tenancy Agreement Room 6, dated 28 December 2021, received 20 June 2023
- Tenancy Agreement Room 6, dated 10 May 2022, received 20 June 2023
- Bank Statement [Lloyds TSB], dated 30 August 2013, received 2 May 2023
- Bank Statement [Lloyds TSB], dated 30 September 2013, received 2 May 2023

- Bank Statement [Lloyds TSB], dated 30 October 2013, received 2 May 2023
- Bank Statement [Lloyds TSB], dated 29 November 2013, received 2 May 2023
- Bank Statement [Lloyds TSB], dated 30 December 2013, received 2 May 2023
- Bank Statement [Lloyds TSB], dated 30 January 2014, received 2 May 2023
- Bank Statement [Lloyds TSB], dated 28 February 2014, received 2 May 2023
- Bank Statement [Lloyds TSB], dated 28 March 2014, received 2 May 2023
- HMO Licence [RBC], dated 17 February 2012, received 2 May 2023
- HMO Licence [RBC], dated 15 July 2022, received 2 May 2023
- HMO Licence [RBC], dated 7 October 2019, received 2 May 2023
- Tenancy Agreement, dated 5 August 2013, received 2 May 2023
- Water Bill [Thames Water] for 30 Cumberland Road, dated 24 June 2013, received 2 May 2023
- SU 7373 Location Plan, dated 21 June 2017, received 2 May 2023
- Title Deeds BK48297, edition date 6 November 2013, received 2 May 2023

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate either that the use of 30 College Road as a large HMO (Sui Generis) began more than 10 years before the date of this application of 28 April 2023. The application form states that the use began on 1 January 2006.

With regards to internal consultee response; the Council Tax team have confirmed that the property is banded as a HMO and has been since 21/06/2013. No Council Tax bills have been provided by the applicant to support the claims of occupancy and use made within this application.

The HMO team have confirmed that the property has a currently valid (until May 2024) HMO licence for up to 9 people. The response from the HMO team and the evidence submitted supports the use of 30 Cumberland Road as a large HMO.

The Enforcement team have confirmed that there is an open enforcement case at 30 Cumberland Road for the unauthorised conversion to a large HMO (Sui Generis). This case was opened in 2022 and is ongoing. The case was opened following a referral from the HMO team. As the case is ongoing, it is not considered to hinder this application.

Turning to the evidence submitted by the applicant to support the claims made within this application, the PPG makes the position clear on how the evidence submitted is to be considered. It says:

“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”

Tenancy agreements have been provided by the applicant which demonstrate continuous use of 30 Cumberland Road as a large HMO for the time periods 2013-2023. Each bedroom has separate tenancy agreements. Although there are large time gaps in between the tenancy agreements, the agent has clarified that this is because the agreements continued on a rolling basis until the commencement of the next signed tenancy agreement. Further

information has not been provided regarding this gap in tenancy which may indicate the number of occupants.

Legal Services are in agreement that the Council does not hold any evidence to contradict the above claims made by the applicant regarding the gaps in tenancy.

The applicant has demonstrated that the property was in use as a large HMO, and the LPA has no evidence that this use was then changed or lost. As such, this is considered sufficient to demonstrate the present use of 30 Cumberland Road as a large HMO (Sui Generis Class) as lawful.

RECOMMENDATION

GRANT

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 30 Cumberland Road as a large HMO (Sui Generis Use Class) begun more than 10 years ago and there is no evidence to suggest this use was changed or lost. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Informative

Positive and Proactive - Approval

