

Delegated Application Report**Target Date: 25/01/22****Address:** 58 Erleigh Road**Application No:** 211936/CLE**Proposal:** Use as a large house in multiple occupation (Sui Generis)**Case Officer:** Tom Hughes**Site Description**

The application site comprises 58 Erleigh Road; an original two storey, with basement, semi-detached property with a rear outrigger. The loft has been converted to habitable accommodation, with the provision of an L-shaped box dormer and roof lights. The site is located in an Article 4 area, controlling the change of use from a dwellinghouse (Class C3) to a house in multiple occupation (Class C4). As per the submitted plans, the property has eight bedrooms across four floors.

Description of Use or Development

A Lawful Development Certificate for an existing use is sought for the use of the property as a large house in multiple occupation (Sui Generis). The relevant time period is ten years: 30/11/11 to 30/11/21.

Relevant Planning History

None.

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

Reading Borough Legal

Advised that on balance, the evidence submitted seems to support the claim that the use of the dwelling known as 58 Erleigh Road has materially changed to that of a sui generis House in Multiple Occupation for eight people and a certificate should be issued.

Reading Borough Council Tax

Advised that the property is listed as a single dwelling, and has been banded for Council Tax purposes as such since at least 01/04/97. Advised that the property is not considered to be a HMO for Council Tax purposes as the property has been let out as a whole rather than on a room by room basis.

Reading Borough Electoral Registration

No response received to consultation.

No public consultation is required for an application of this type, so none was undertaken. However, five letters of representation were received raising various objections. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

Submitted Evidence

The agent supplied the following, received on 01/12/21:

Statutory Declaration by Mr Galab Hussain, dated 29/09/21

Planning Statement

Site Location

Drawing No: 1023/1 - Existing Floor Plans

Copy of email from RBC Billing Officer, dated 05/11/21

Tenancy Agreement, dated 26/01/11, for 8 tenants, for period 01/07/11 to 30/06/12

Tenancy Agreement, dated 06/02/12, for 8 tenants, for period 01/07/12 to 30/06/13

Tenancy Agreement, dated 15/01/13, for 8 tenants, for period 01/07/13 to 30/06/14

Tenancy Agreement, dated 17/02/14, for 8 tenants, for period 01/07/14 to 30/06/15

Tenancy Agreement, dated 20/04/15, for 8 tenants, for period 01/07/15 to 30/06/16

Tenancy Agreement, dated 12/11/15, for 8 tenants, for period 01/07/16 to 30/06/17

Tenancy Agreement, dated 07/12/16, for 8 tenants, for period 01/07/17 to 30/06/18

Tenancy Agreement, dated 29/11/17, for 8 tenants, for period 01/07/18 to 30/06/19

Tenancy Agreement, dated 01/07/19, for 8 tenants, for period 01/07/19 to 30/06/20

Tenancy Agreement, dated 19/11/19, for 8 tenants, for period 01/07/20 to 30/06/21

Tenancy Agreement, dated 24/11/20, for 8 tenants, for period 01/07/21 to 30/06/22

Analysis of Evidence

Evidence has been provided in the form of a Statutory Declaration and eleven concurrent Tenancy Agreements, covering the period 01/07/11 to 30/06/22. The relevant time period is 30/11/11 to 30/11/21.

The Tenancy Agreements cover more than the ten years in question, and show the dates of occupation and the names of occupiers, signed by various letting agents.

The Council does not have any information to contradict or make the applicants version of events less probable.

Having regard to the foregoing, it is considered on the balance of probability, the property known as 58 Erleigh Road, Reading, RG1 5NH has been in use as a large house in multiple occupation for a period in excess of ten years. In the circumstance, it is considered appropriate to grant a Certificate of Lawfulness to that effect.

Recommendation

GRANT Certificate of Lawfulness