

DELEGATED APPLICATION REPORT

Ward: Katesgrove

App Ref: 220201/CLE

Address: 6 Norris Road, Reading, RG6 1NJ

Proposals: Certificate of Lawfulness for Existing Use as small HMO (Use Class C4)

Case Officer: Mr David Brett

Applicant: Miss G Bhangra

Date received (valid from): 12/05/2022

Valid from: 30/05/2022

Target Date: 30/08/2022, extension of time agreed on decision from 25/07/2022.

Site Description and Surrounding Area

The proposal site is a two-storey middle terraced dwelling along Norris Road, East Reading.

The application site is not listed, nor in a conservation area.

Description of Use or Development

This application seeks to demonstrate the existing use of 6 Norris Road as a small HMO (Use Class C4).

Relevant Planning History

None

Consultation Responses

There are no statutory consultation requirements for a Certificate of Lawfulness application.

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 Council, Electoral Registration - Response received on XX/XX/2022

- Number of electors at the property:

Year	Property 6 Norris Road Number of Registered Electors
2022	4
2021	5
2020	5
2019	5
2018	0
2017	5
2016	3
2015	2
2014	0
2013	6
2012	6

Reading Borough Council, Council Tax - Response received on 26/07/2022

- This property has been banded as a single dwelling for CT purposes since at least 01.04.1997.
- The property has been let out to various groups of tenants for at least the last 10 years. The tenants are all named on the same tenancy agreement, so we wouldn't class this property as a HMO for CT purposes.

Reading Borough Council, Enforcement - Response received on 26/07/2022

- Having checked our records (which go back to 2003) I can confirm that we have had no dealings with this property.

Reading Borough Council, Environmental Health - Response received on 27/07/2022

- We first received an application for a HMO licence in August 2006 (when the mandatory licensing scheme for properties of 3 storeys or more with 5 or more occupants was first being implemented).
- Licence issued in March 2007.
- Further licences were issued in 2009, 2012 and 2018
- Plans provided by the applicant show each room and not overall layout (attached).

- The 2012 and most recent application in March 2017 showed 6 occupants in 6 bedrooms, this was confirmed at a property inspection in February & May 2018.

Reading Borough Council, Legal Services - Response received on 24/08/2022

- The evidence has been considered by Legal Services
- No evidence is provided that contradicts the applicant's evidence, therefore, the certificate can be granted.

Submitted Evidence

The applicant provided the following evidence to support the use of 6 Norris Road as a small HMO (Use Class C4):

- Location Plan
- Assured Shorthand Tenancy Agreement - 01/07/2021 to 30/06/2022
- Council Tax Bill - 01/04/2021 to 31/03/2022

Received on 17/05/2022

- Assured Shorthand Tenancy Agreement - 01/07/2012 to 30/06/2013
- Assured Shorthand Tenancy Agreement - 01/07/2014 to 30/06/2015
- Assured Shorthand Tenancy Agreement - 01/07/2016 to 30/06/2017
- Assured Shorthand Tenancy Agreement - 01/07/2018 to 30/06/2019
- Assured Shorthand Tenancy Agreement - 01/07/2019 to 30/06/2020
- Deposit Protection Certificate - 01/09/2010 to 30/06/2011
- Deposit Protection Certificate - 01/07/2011 to 30/06/2012
- Deposit Protection Certificate - 01/07/2013 to 30/06/2014
- Deposit Protection Certificate - 01/07/2015 to 30/06/2016
- Deposit Protection Certificate - 01/07/2017 to 30/06/2018

Received on 21/07/2022

- Assured Shorthand Tenancy Agreement - 01/07/2017 to 30/06/2018
- Assured Shorthand Tenancy Agreement - 01/07/2020 to 30/06/2021

Received on 22/07/2022

- Assured Shorthand Tenancy Agreement - 01/07/2013 to 30/06/2014

Received on 25/07/2022

- Assured Shorthand Tenancy Agreement - 01/07/2011 to 30/06/2012
- Assured Shorthand Tenancy Agreement - 01/07/2015 to 30/06/2016

Received on 26/07/2022

Assessment

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use as 6 Norris Road as small HMO (Use Class C4) began more than 10 years before the date of this application of 12/05/2022. The application form states that the use began in 31/07/1988.

With regards to internal consultee responses; the Council Tax Team have confirmed that the property has been banded for Council Tax purposes since at least 01/04/1997 and that the property is let to tenants under the same tenancy agreement. The Council Tax Team also stated that the property is not classed as a HMO for Council Tax purposes. It is considered that confirming 6 Norris Road as being banded does not demonstrate occupancy or use in supporting the claims made within this application. The comments from the Council Tax Team do, however, confirm that the property has been let to tenants under the same tenancy agreement which supports the use of the property as a small HMO.

The Electoral Services Team have provided the number of electors registered to 6 Norris Road since 2012. The list states that there were no electors registered at the property in 2014 to 2018. It should be recognised that this list is lacking in specific detail as to the exact dates of occupancy, but this is not the level of detail expected in this sort of response. It is also considered relevant that any tenants of the property are not required to register as an elector.

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”.

Upon request, the applicant has provided tenancy agreements that cover a ten-year period prior to the date of this application. The tenancy agreements also correspond with the named person and date on the Deposit Protection Certificates provided. No gaps have been identified based on the tenancy agreements submitted, and the Council evidence to contradict the applicant’s version of events. It is therefore considered more than probable that 6 Norris Road has been in use as a small C4 HMO for at least ten years prior to the date of this application. It is acknowledged that the number of tenants fluctuates between 3 and 6 tenants, however, this still falls within the definition of a small C4 HMO of “Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom” (Planning Portal, 2022).

On the balance of probabilities, it is therefore considered to have been suitably demonstrated that 6 Norris Road has been a continuously occupied as a small C4 HMO for a ten-year period prior to the receipt of this application. This conclusion is drawn having considered all the evidence including the submission of Assured Shorthand Tenancy Agreements covering a ten-year period with no gaps, along with the Deposit Protection Certificates.

Recommendation
Grant

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 6 Norris Road as a small HMO (Use Class C4) has been ongoing for continuously for at least ten years. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Informatives

Positive and Proactive - Approval

