

Delegated Application Report

Target Date: 26/08/19

Address: Flat 2, 55-57 Erleigh Road

Application No: 190992/CLE

Proposal: Use as a 5 person HMO (Class C4)

Case Officer: Tom Hughes

Site Description

The application site comprises a three storey building at the junction of Erleigh Road and Blenheim Road. Single and double storey extensions extend to the rear. At the ground floor is located The Co-op supermarket. Flat 2, the subject of this application, is located at the first and second floor. Two other flats are located within the building.

Description of Use or Development

A Lawful Development Certificate for an existing use is sought for the use of the flat as a 5 person HMO. The relevant time period is 21/06/09 to 21/06/19.

Relevant Planning History

181523/CLE - Installation of box dormer - Withdrawn 24/05/19

Extensive planning history relating to the ground floor commercial premises.

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

Legal

No formal response received to consultation.

Council Tax

Records show that Flat 2 has been banded for Council Tax purposes since at least 01/04/97. The whole building contains three flats. Flat 2 has been let out to students for several years.

Electoral Roll

Between 2005 and 2019, the number of residents of Flat 2, 55-57 Erleigh Road on the Electoral Roll varied between 0 and 5.

Public Representation

This type of application is not subject to public consultation, but three representations have been received with regard to the following:

- The use was concealed from local residents, and should be refused citing *Welwyn Hatfield Borough Council v SSCLG Officer note: it is not considered that the HMO use has been concealed, as the Council Tax information corroborates*
- The area has too many HMO's which is detrimental to the local community and has resulted in the loss of single family housing *Officer note: the planning merits of the use are not relevant to this application, see above*

Submitted Evidence

All submitted evidence relates to Flat 2, 55-57 Erleigh Road unless specified.

The agent supplied the following, received on 21/06/19:

Drawing No: 005 - Site Location and Block Plan

Tenancy Agreement for 5 people, for period 01/07/15 to 30/06/16

Tenancy Agreement for 5 people, for period 01/07/16 to 30/06/17

Tenancy Agreement for 5 people, for period 01/07/17 to 30/06/18

Tenancy Agreement for 5 people, for period 01/07/18 to 30/06/19

Gas Safety Record, dated 18/04/16 (for Flat 1, 55-57 Erleigh Road)

Gas Safety Check Invoice, dated 18/04/16

Electric and Plumbing Works Invoice, dated 26/09/16

Gas Safety Record, dated 20/01/17

Domestic Visual Condition Report, dated 01/02/17

Gas Safety Record, dated 19/01/18

Boiler Check Invoice, dated 27/01/18

Gas Safety Check, Electrical Inspections and Fire Systems Check Invoice, dated 10/08/18

Subsequently the agent supplied the following, received 08/01/20:

Deposit Protection Certificate for 5 people, dated 30/09/08 for tenancy from 27/09/08

Deposit Protection Certificate for 5 people, dated 03/03/09 for tenancy from 01/07/09

Deposit Protection Certificate for 5 people, dated 27/06/10 for tenancy from 01/07/10

Deposit Protection Certificate for 5 people, dated 15/06/11 for tenancy from 01/07/11

Deposit Protection Certificate for 5 people, dated 02/07/12 for tenancy from 01/07/12

Deposit Protection Certificate for 4 people, dated 22/07/13 for tenancy from 01/06/13

Deposit Protection Certificate for 5 people, dated 04/07/13 for tenancy from 01/07/14

Deposit Protection Certificate for 5 people, dated 17/06/15 for tenancy from 01/07/15

Deposit Protection Certificate for 5 people, dated 23/06/16 for tenancy from 01/07/16

Deposit Protection Certificate for 5 people, dated 23/06/17 for tenancy from 01/07/17

Deposit Protection Certificate for 5 people, dated 05/06/18 for tenancy from 01/07/18

Deposit Protection Certificate for 5 people, dated 11/12/18 for tenancy from 01/07/19

Deposit Protection Certificate for 5 people, dated 09/12/19 for tenancy from 01/07/20

Subsequently the agent supplied the following, received 02/11/20:

Drawing No: 003 - Proposed Second Floor Plan, Elevations and Section

Analysis of Evidence

The agent has submitted an Application for a Lawful Development Certificate for an existing use, to establish that the use of part of the first and second floors of 55-57 Erleigh Road as a 5 person HMO has been ongoing for more than ten years.

The relevant time period is 21/06/09 to 21/06/19.

The agent has supplied evidence dating to 2008 showing the use of the property as an HMO. The Local Planning Authority has evidence of its own to show that the HMO use has been ongoing.

Having regard to the foregoing, it is considered on the balance of probability, the property known as Flat 2, 55-57 Erleigh Road, Reading, RG1 5NL has been in use as a 5 person HMO 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



Site Location