

DELEGATED APPLICATION REPORT

Ward: Redlands

App Ref: 201483/CLE

Address: 51 Hatherley Road, Reading, RG1 5QE

Proposals: Certificate of Lawfulness for Existing use as 3 bedroom HMO (Class C4).

Case Officer: Mr David Brett

Applicant: Mr Paris Dhillon

Date received: 21/10/2020

Valid from: 21/10/2020

Target Date: Originally 16/12/2020, extension of time agreed until 21/01/2021

Site Description and Surrounding Area

The proposal site is a two-storey terrace dwelling along Hatherley Road. Hatherley Road is located off of Addington Road, north of St. Joseph's College. The immediate surrounding area is residential. The proposal site is within an Article 4 area, which controls the change of use from C3 to C4 HMO.

Description of Use or Development

This application seeks to demonstrate the existing use of 51 Hatherley Road as a small 3 bedroom HMO (C4), by providing evidence that the property has been in use as such for more than ten years prior to the application date (21/10/2020).

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 Council, Electoral Registration - Response received on 30/10/2020

- Number of electors at the property:

Year	No. of electors
2020	1
2019	1
2018	1
2017	0
2016	1
2015	0
2014	0
2013	3
2012	3
2011	3
2010	3
2009	3
2008	1
2007	0
2006	0
2005	3

Reading Borough Council, Environmental Protection - Response received on 17/11/2020

- No comments to make on this application.

Reading Borough Council, Council Tax - Response received on 04/11/2020

- Our records show this property is banded as one single dwelling for c.tax purposes since at least 01.04.1997.
- This property is let to tenants/students under the same tenancy agreement, so we wouldn't consider this property as a HMO under the c.tax law.

Submitted Evidence

The applicant provided the following to support the existence of 51 Hatherley Road as a 3 bed HMO (C4):

- Location Plan
- Existing Floor Plan
- Tenancy Agreements for the last ten years

Assessment

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use as a C4 HMO began more than 10 years before the date of this application of 21/10/2020.

The tenancy agreements provided as evidence by the applicant to support this application are considered to appropriately demonstrate that 51 Hatherley Road has been let to three tenants on separate yearly occasions (with no break in any tenancy agreement periods) from July 2009. The table below demonstrates that since 28/01/2009 (with that tenancy period commencing on 01/07/2009), tenancy agreements have been in place for three tenants at 51 Hatherley Road.

Date of Tenancy Agreement	Period of tenancy	Number of Tenants
28/01/2009	01/07/2009 - 30/06/2010	3
10/06/2010	01/07/2010 - 30/06/2011	3
20/01/2011	01/07/2011 - 30/06/2012	3
27/02/2012	01/07/2012 - 30/06/2013	3
28/01/2013	01/07/2013 - 30/06/2014	3
20/06/2014	01/07/2014 - 30/06/2015	3
09/03/2015	01/07/2015 - 30/06/2016	3
14/11/2015	01/07/2016 - 30/06/2017	3
27/02/2017	01/07/2017 - 30/06/2018	3
12/12/2017	01/07/2018 - 30/06/2019	3
19/11/2018	01/07/2019 - 30/06/2020	3
26/11/2019	01/07/2020 - 30/06/2021	3

This information also partly aligns with the consultation response from Electoral Services, which demonstrates three electors at the property from 2009 to 2013. Whilst acknowledging that the number of persons on the electoral roll is fewer since that point in time, that does not necessarily mean that there were not people living at the property at that time. It has also been confirmed by Council Tax that the property is let to tenants/students under the same tenancy agreement. Importantly, the Council has no firm contrary evidence to suggest that the property has not been let as described for at least ten years.

Recommendation

Grant

On the basis of the available evidence and on the balance of probabilities, it is considered the use of 51 Hatherley Road as a 3 bed HMO began more than 10 years before the date of this application (21/10/2020). It is therefore considered a Certificate of Lawfulness should be granted.

Informatives to be stated on the decision notice

As per NPPF Planning Practice Guidance - Lawful Development Certificates (Paragraph 004 ID: 17c-004-20140306) this certificate applies only to the lawfulness of the development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements such as Building Regulations.

In reaching this decision, the local planning authority has taken into account the following information submitted by the applicant:

- Location Plan
- Existing Floor Plan
- Tenancy Agreements for the last ten years
- Application Form

