

Delegated Application Report

Target Date: 10/05/2019

Address: "First and second floor", 263 Oxford Road, Reading, RG1 7PY

Application No: 190428

Proposal: Certificate of lawfulness for the use of the first and second floor as a C4 6-person (maximum) house of multiple occupation (HMO)

Case Officer: Anthony Scholes

Site Description

The property is located on the northern side of Oxford Road. This certificate relates to the first and second floor use of the property, above the existing ground floor commercial use.

Description of Use or Development

The existing use of the property is C4 (HMO) licensed for a maximum of 6-persons.

Relevant Planning History

060726/FUL (06-01267-FUL) - Change of use from A2 on ground floor to A3 with proposed single storey rear extension and internal changes to first and second floor accommodation.

120427/APC (12-01913-APPCON) - Discharge of conditions 2, 3, 4, 5, 6 and 7 of planning permission 06/01267/FUL

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

Council Tax

The internal Customer Services Property Inspector made the following comments:

- Our c/tax records only show this property as one single dwelling and banded since at least 01.04.1997
- We do consider this property to be a HMO for c/tax purposes since at least 31.01.2009.

Electoral Registration

The electoral registration shows the following information:

Date Period	Registered residents
2005	1 Resident
2007-2006	No Residents
2010-2008	1 Resident
2012-2011	2 Residents
2014 - 2013	1 Resident
2015	1 Resident
2016	3 Residents
2017	2 Residents
Current - 2018	3 Residents

Environmental Health

No response.

Legal

Whilst there have been some lengthy gaps in occupation for a room (s) at various times it is considered that, on balance, there has been sufficient continuity as a small HMO for the Council to have taken action for such an unauthorised HMO which has not been taken.

Submitted Evidence

The evidence supplied consists of a statutory declaration including a large number of tenancy agreements for each room.

Analysis of Evidence

For the purpose of a change of use from a C4 house of multiple occupation the applicant must demonstrate that the change of use has been in place for 4 years subject to no enforcement action having been taken on the property.

A statutory declaration has been submitted, it is considered that the evidence provided, coupled with the consultation responses received from the electoral registration, council tax and legal departments, is sufficient to determine that this property has been used as a C4 small HMO for a continuous period of at least 4 years. As such it is recommended that a certificate of lawfulness (existing) be granted.

Recommendation

Grant

