

DELEGATED PLANNING APPLICATION REPORT

Ward: Redlands

App Ref: 240747/CLE

Address: 36 Blenheim Road, Reading, RG1 5NQ

Proposals: Dwellinghouse in use as a 5-bedroom small HMO (C4 class) for more than 10 years

Case Officer: Marcie Rejwarska

Date received (valid from): 18 June 2024 Target Decision date: 19 August 2024 (ext)

1. SITE DESCRIPTION

The application site comprises a mid-terrace two storey property on the west side of Blenheim Road. The property has a number of existing rear extensions, including an original two-storey outrigger, a rear dormer, and two single storey rear extensions. There is no planning history for the existing extensions, and these are likely to have been implemented under permitted development rights. The site is within an Article 4 Direction Area preventing the change of use from C3 (dwellinghouse) to C4 (small HMO) - this direction was adopted in 2012.



Photo of the application site taken from Blenheim Road by the case officer on 27/06/2024.

2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks to demonstrate the existing use of the property as a 5-bedroom, 5-person small HMO (C4 class).

3. RELEVANT PLANNING HISTORY

None.

4. LEGAL AND PLANNING POLICY CONTEXT

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'.

Equality Act 2010:

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

5. CONSULTATIONS

RBC Electoral Registration, response received on 03/07/2024:

Year	Number of electors
2024	4
2023	3
2022	3
2021	3
2020	1
2019	1

2018	0
2017	0
2016	0
2015	1
2014	2

RBC Council Tax, response received on 20/06/2024:

This property is banded as a single dwelling and has been banded for CT purposes since at least 01.04.1997. This property has been let out to different groups of tenants since the date of banding, as the tenants are all named on the same tenancy agreement we would not class this property as a HMO for CT purposes.

RBC Planning Enforcement, response received on 09/07/2024:

We hold no record for this land.

RBC Private Sector Housing, response received on 08/07/2024:

From our records 36 Blenheim Road, Reading, RG1 5NQ 1) was a student HMO prior to May 2010; 2) has been a licenced HMO since 2011; 3) currently has a HMO licence that expires on 30/5/26.

RBC Legal Services, response received on 15/08/2024:

Recommend it is appropriate for the Certificate of Lawfulness to be granted.

6. SUBMITTED EVIDENCE

The applicant has provided the following evidence to demonstrate the use of 36 Blenheim Road as a 5-bedroom, 5-person small HMO (C4 use class):

Tenancy Agreements dating from 2009 to 2023
Statutory Declaration, signed on 8th March 2024
HM Land Registry Title Plan
Block Plan, dated 11 March 2024
Floor Plan

Received by the LPA on 11 June 2024.

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of 36 Blenheim Road as a 5-bedroom, 5-person small HMO (C4 use class) began more than 10 years before the date of this application on 18 June 2024, and before the Article 4 Direction in Redlands to prevent change of use from C3 (dwellinghouse) to C4 (small HMO) was adopted. The application form states that the use began on 1 July 2009.

With regards to internal consultee comments, the Council Tax records show that the property is banded as a single dwelling and has been banded for Council Tax purposes since at least 1997. However, for Council Tax purposes the property is not considered a HMO as the property is let under one agreement to different groups of people. The applicant has submitted a statutory declaration that the property has been and is let to students at the University of Reading, and this is not unusual for student houses. The Council Tax record, therefore, does not contradict the applicant's claim. The Electoral Register records do not

indicate occupation numbers and is, therefore, not considered to have significant weight. There are also no Planning Enforcement records relating to the application site.

Turning to the evidence, submitted by the applicant to support the claim made within this application, the PPG makes the position clear on how the evidence submitted is to be considered:

“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”

The applicant has submitted tenancy agreements dating from 2009 to the present, and a statutory declaration that the property has been in use as a small HMO in excess of 10 years. The submitted evidence is clear and unambiguous that the use of the property as a small HMO (C4 class) began more than 10 years ago and before the Article 4 Direction in Redlands was adopted. There are no gaps between tenancies which may create any doubt as to the applicant’s claim.

RBC Legal Services agree with the case officer’s assessment of the evidence and support the recommendation made.

RECOMMENDATION GRANT CERTIFICATE

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 36 Blenheim Road as a 5-bedroom, 5-person small HMO (C4 use class) began more than 10 years ago, before the adoption of the Article 4 Direction in Redlands, and there is no evidence to suggest that this use was changed or lost. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Location Plan (Scale 1:1250)

