

DELEGATED APPLICATION REPORT

Ward: Park Ward

App Ref: PL/24/1545 Lawful development: Existing use

Address: 286 WOKINGHAM ROAD, READING, RG6 1JU

Proposal: Dwellinghouse in use as a 7-bedroom 7-person large HMO (Sui Generis) for more than 10 years (amended description)

Applicant: Mr Parma Dhillon

Received date: 19/11/2024

Target Decision date: 03/03/2025

Case Officer: Marcelina Rejwerska

1. SITE DESCRIPTION

The application site is a semi-detached two-storey dwelling on the corner of Wokingham Road and Earley Hill Road, with a large two storey rear extension. The surrounding area is predominately residential, although there is a concentration of commercial premises at the nearby junction of Wokingham Road/Wilderness Road/Church Road, and the site is in close proximity to the Wokingham Road Fire Station. The site is not a conservation area and is not in an Article 4 Direction area.



2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks to demonstrate the use of 286 Wokingham Road as a 7-bedroom 7-person large HMO (Sui Generis) for more than 10 years.

3. RELEVANT PLANNING HISTORY

PL/99/2459 – Two storey and part single storey/part two storey rear extension and side garage. Application permitted.

PL/91/0615 – Porch, conservatory and car port. Application permitted

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'.

5. CONSULTATIONS

The following were consulted:

- RBC Council Tax
 - Our records show this property as being banded under a single dwelling for council tax purposes since at least 01.04.1997.
 - We do consider this property to be a HMO for council tax purposes, since 07.02.2012; as the property is being let out on a room to room basis.
- RBC Electoral Registration

2025	2
2024	2
2023	2
2022	5
2021	5
2020	6
2019	7
2018	6
2017	6
2016	5

- RBC Planning Enforcement
 - No record or knowledge of.
- RBC HMO team
 - The property benefitted from an HMO licence for 9 persons from 2020 until recently a new application is pending, the first application was made in 2019. Reports of use as an HMO were investigated in 2013 but unsubstantiated. Our notes suggest other departments had records indicating use from 2009 for 7 persons.

- RBC Legal - I 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 286 Wokingham Road as a 7-bedroom 7-person large HMO (Sui Generis):

A-1000 Location and Block Plan

A-1010 Existing Floor Plan

Various Certificates of Tenancy Deposit Protection

Various Assured Shorthold Tenancy Agreements

Screenshots from estate agent's tenant management software for rooms 1-7

Received by the LPA on 23 December 2024

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of 286 Wokingham Road as a 7-bedroom 7-person large HMO (Sui Generis) began more than 10 years before the date of this application on 20th November 2024. The application form states that the use began on 3rd November 2008.

With regards to internal consultee comments, the Council Tax records show that the property is considered an HMO on the basis that rooms are rented out on an individual basis. This, however, does not demonstrate the number of rooms within the property. The HMO licencing history of the property does not necessarily contradict the applicant's claim.

The Council hold no records of planning enforcement on the 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 various evidence to demonstrate continuous occupation of the property as a 7-bedroom, 7-person large HMO (Sui Generis) including screenshots from the managing estate agents tenant management software which shows the occupancy history of each room in excess of the 10 year qualifying period. Some tenancy agreements have been submitted to support this data, however, not all agreements are available. The LPA's Legal department have advised that the screenshots can be considered as evidence, although bear less weight than tenancy agreements themselves. The submitted evidence is therefore somewhat limited, however, the LPA do not hold any significant evidence to the contrary. As such, on the balance of probabilities it is considered that the certificate should be granted.

8. RECOMMENDATION

The applicant has provided evidence or other information that satisfies the Local Planning Authority that the use of 286 Wokingham Road as a 7-bedroom, 7-person large HMO (Sui Generis) began more than 10 years ago and there is no evidence to suggest that this use was changed or lost. The Council holds supporting information for the applicant's claim. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Location Plan



Floor Plan

