

DELEGATED APPLICATION REPORT

Ward:

App Ref: PL/25/1427 Lawful development: Existing use

Address: 32 BRIGHTON ROAD, READING, RG6 1PS

Proposal: Certificate of Lawful Existing Use confirming the lawful use of the property as a C4 HMO

Applicant: Mr Gurjhot Kooner

Received date: 06/10/2025

Target Decision date: 01/12/2025

Case Officer: Catrin Davies

1. SITE DESCRIPTION

The application site relates two-storey terraces property with accommodation in the loft space located at Brighton Road. The site lies within an Article 4 direction area which restricts HMO's.

2. PROPOSAL AND SUPPORTING INFORMATION

The application is for a Certificate of Existing Lawful Development under Section 191 of the Town and Country Planning Act 1990 (as amended). The applicant is seeking to demonstrate that the house has been with Use Class C4 (5 persons) for a continuous period of at least 10 years and therefore not requiring planning permission.

Planning History

No relevant planning history

3. CONSULTATIONS

The following were consulted:

Housing Development Consultations

No comment

Council Tax Consultations

This property has been banded for CT purposes as a single dwelling since at least 01.04.1997. We do not consider this property to be a HMO for CT purposes as the tenants are all named on the same tenancy agreement and therefore liable for the CT charge.

Electoral Registration Consultations

32 Brighton Road

2025 0

2024 5

2023 5

2022 0

2021 1

2020 1

2019 1

2018 1

2017 0
2016 2

RBC Legal Services

I am satisfied that the applicant has submitted evidence, which is sufficiently precise and unambiguous, to prove on the balance of probabilities that 32 Brighton Road was used as an HMO for more than 10 years from the date of application. There is no evidence of an Enforcement Notice currently being in force. Further, I am satisfied that nothing from the Council's own enquiries and site visits has revealed anything that would make the applicant's version of events less than probable. For these reasons, I have no concerns about your recommendation to grant the requested CLE.

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 if 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 a planning permission. The planning merits of the 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 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".

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. APPRAISAL

The application is for a Certificate of Existing Lawful development for the use of the house as a C4 dwelling which is defined as a Houses in multiple occupation (Small shared houses occupied

by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom)

The purpose of this Certificate of Lawfulness has been described as to establish whether the use has been for a continuous uninterrupted period of 10 years before the date of the application and is therefore immune from enforcement action. The standard of proof in considering such applications is on the balance of probability and the onus is on the applicant to demonstrate that the site has been used for the requisite period.

The NPPG (lawful development certificates section) states that an application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. The guidance further states that the applicant is responsible for providing sufficient information to support an application. There is no good reason to refuse an application for existing use, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The application form states the breach begun on the 04-10-2010. It is claimed that there is evidence to demonstrate that on the balance of probabilities the building has been in residential use in excess of 10 years prior to the date of this application.

The time limits for the taking of enforcement action are set out in s172(b) of the Town and Country Planning Act 1990 (as amended). The time periods for taking enforcement action were amended by Section 115 of the Levelling-up and Regeneration Act 2023, this introduced a change from 'four years to ten years' for sites in England. The Levelling-up and Regeneration Act 2023 included transitional provisions. Essentially the time limits for enforcement do not apply where the operations were substantially completed, or the breach occurred before the new regulations came into force on 25th April 2024.

The submitted evidence is summarised as follows:

2015-2016

Document
Insurance document confirming it's for a student HMO year 2015
Email from estate agency confirming tenant from 2015-1016
Bank records showing payments from tenants within this time

2016-2017

Document
Insurance document confirming it's for a student HMO year 2016
Email from estate agency confirming tenants from 2015-1016
Bank records showing payments from tenants within this time
Tenancy agreement from July-June

2017-2018

Document
Insurance document confirming it's for a student HMO year 2017
Email from estate agency confirming tenants

Bank records showing payments from tenants within this time

2018-2019

Document

Email from estate agency confirming tenants

Bank records showing payments from tenants within this time

Tenancy agreement covering 12 months

2019-2020

Document

Insurance document confirming it's for a student HMO year 2016
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Email from estate agency confirming tenants

Bank records showing payments from tenants within this time

Tenancy agreement

2020-2021

Document

Insurance document confirming it's for a student HMO
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Email from estate agency confirming tenants

Bank records showing payments from tenants within this time

Signed statement from tenant

Covid statement

2021-2022

Document

Insurance document confirming it's for a student HMO
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Email from estate agency confirming tenants

Bank records showing payments from tenants within this time

Council Tax email

2022-2023

Document

Insurance document confirming it's for a student HMO
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Bank records showing payments from tenants within this time

Tenancy Agreement

2023-2024

Document

Insurance document confirming it's for a student HMO
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Bank records showing payments from tenants within this time

Tenancy Agreement

2024-2025

Document

Insurance document confirming it's for a student HMO
Bank records showing payments from tenants within this time
Tenancy Agreement

2025-2026

Document
Insurance document confirming it's for a student HMO
Bank records showing payments from tenants within this time
Tenancy Agreement

Other documents

Document
HMO License 17/05/2016- 16/05/2021
HMO License 30/04/2021- 29/04/2026
Email with FOI Request from Reading Council stating HMO Licence was issued on the 04/10/2010
Statutory declaration confirming property has been a HMO for over 10 years
Statement of fact from property agent
Floor plans

The evidence demonstrates that dwelling has been used as a HMO for over 10 year continuously. The planning officer attended the site on 31/10/2025 and the officer observed the dwelling being used as a HMO.

The Local Planning Authority have no evidence to the contrary or which would make the version of events described by the applicant within their supporting evidence to be less than probable. It is therefore considered; on the balance of probability the basement dwelling has been used as a 5 bedroom HMO for a continuous period of over 10 years.

On this basis, and without being made aware of any information to the contrary, the Certificate should be granted.

6. CONCLUSION

GRANT CERTIFICATE

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the dwelling has been used as a 5 bedroom HMO continuously for over 10 years. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.



Location Plan