

DELEGATED REPORT

Report by Sam Summers	Date of report: 27/06/2024	Ref: 70661/LDCP
Registration: 23/04/2024	LDFC: 14/05/2024	Expiry Date: 18/06/2024
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Lawful Development Certificate for proposed conversion of 3 no. apartments to 1 no dwelling

Location: 35 Hilton Crescent, Prestwich, Manchester, M25 9NQ

Description

Lawful Development Certificate for proposed conversion of 3 no. apartments to 1 no dwelling. The property is a semi-detached two storey dwellinghouse on the corner of Hilton Crescent and Buckingham Road.

Conversion of three flats to create one dwelling. All works to be carried out are internal with no external alterations or extensions proposed. The proposal will result in the loss of two residential units.

Relevant Planning History

None

Publicity

None

Statutory/Non-Statutory Consultations

None

Pre-start Conditions - None

Development Plan and Policies

Issues and Analysis

Planning Law and Court Rulings -

Planning legislation states that where development does not result in a change in the use class of a property, planning permission is not required (Section 55(2)f of The Town and Country Planning Act 1990). This would appear to cover the position where two or more units are amalgamated into a single unit, or in this case one residential unit. The use class is and remains C3 (dwellinghouses) and proposed internal works do not require planning permission.

However, the case of The London Borough of Richmond-upon-Thames v SSETR and Richmond-upon-Thames Churches Housing Trust [2000] 2 PLR 115 and the recent Royal Borough of Kensington & Chelsea appeal decision (3028049) (2016) have ruled that the "same use class" exception cannot be relied upon in residential amalgamation cases. This is because the wording of the Use Classes Order refers to "a dwellinghouse" i.e.

a single dwellinghouse. When two separate dwellinghouses are amalgamated, the "same use class" exception does not apply because the original use of the two units to be amalgamated was not in "use as a dwellinghouse".

Without the benefit of the "same use class" exception, the question then becomes, is the amalgamation of two dwellinghouses capable of being a material change of use for which planning permission is required? The Richmond case and the recent Royal Borough of Kensington & Chelsea appeal decision have both held that amalgamation is capable of being a material change of use in planning terms. However, this is not a blanket rule and each case requires assessment on a fact and degree basis against the background of the applicable development plan policy and any other material considerations.

Material Considerations -

The proposed works to carry out the amalgamation from three flats to one dwelling involves only internal alterations and as such the appearance of the building will not be changed. The resultant dwellinghouse would remain in Use Class C3. Furthermore there would be less impact with the servicing, access and parking on the residential amenity of nearby properties.

The Bury Adopted Unitary Development Plan does not contain policy considerations that specifically prevent the loss of any number of housing units through the granting of other development. As such any loss of housing units would have to be judged on its merits taking into account the requirement of the specific house type in a particular area and or the number of units to be lost, as to the impact on the housing supply as a whole and the local area in particular.

This proposal would lead to the loss of two dwellinghouses. There is no known identified chronic shortage of any particular house type in the area that would be subject to current policy requirements.

As such the proposal does not benefit from the protection of the "same use class" exception as laid down in the Richmond ruling. It is considered for the reasons given above the amalgamation of the three flats into one dwelling would not constitute a material change of use and would therefore be lawful.

Recommendation: LAWFUL

Conditions and Reasons:

- 1 The proposal, described in the First Schedule, is not deemed to constitute development within the meaning of Section 55 of the Town & Country Planning Act 1990 (as amended) as the proposed conversion of 3 no. apartments to 1 no. dwelling would not represent a material change of use from the existing C3 dwellinghouse use, and would therefore be Lawful Development.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
SS	27/06/2024	DM -	27/06/2024