

Cover Letter

The certificate of lawful use or development is sought for change of use from small HMO (Use Class C4) to large HMO (sui generis) limited to 7 residents

At

181 Tottington road Bury BL8 1RX

DESCRIPTION OF SITE/PROPOSAL

Certificate of Lawfulness for proposed Change of use from small HMO (Use Class C4) to a large HMO (Sui Generis) for 7 residents.

C4 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 property is licenced for 6 persons and lawfully operates as such.
The current use has been verified by refusal Application Number: 67542

The definition of development in section 55(1) of the 1990 Act includes “the making of any material changes in the use of any buildings or other land”. However, while the intensification of a use can amount to a material change of use, the Courts have held that the mere intensification does not in itself constitute a material change of use. The key determinant in this respect is whether the degree of intensification is such that it amounts to a material change in the character of the use.

Activity associated with the use is a facet of its character and any increase in the number of people living at the application property would probably result in a commensurate increase in general activity and comings and goings. This is likely to be the main consequence arising from this LDC proposal.

The scale of the increase would be 1 extra resident, and the additional degree of activity is unlikely to be so great that it would materially alter the fundamental character of the use of the property as a HMO.

It is recognised that the use for which the LDC is sought would be an intensification of the existing use as more people would be residing at the application property.

In addition, it would fall outside the ambit of Use Class C4. Be that as it may, the circumstances of this application are such that as a matter of fact and degree, the proposed use would not amount to a material change of use. It would not therefore amount to development as defined by section 55 of the 1990 Act and so would be lawful

There are no external changes to the property's appearance and therefore there is no negative impact on either character or amenity of the site's location.

Conclusion

The property is currently in lawful use as a small house in multiple occupation (Class C4 for three to six unrelated residents). The increase of one resident to a total of seven residents is not considered to constitute a material change of use, as outlined above.

Further reference can be made to Paragraph 17 of Annex A of Circular 08/2010:

"A material change of use will occur only where the total number of residents has increased to the point where it can be said that the use has intensified so as to become of a different character".

While the Circular 08/2010 has been superseded, there is no further advice or legislation from Government with regard to this matter to assume that this no longer stands.

Therefore, this logic is applied in reviewing this application.

In this instance, the increase of one resident to seven residents at the application site, is not a significant intensification of occupation to be considered to alter the character of the use of the property. The proposed

changes would also comply with HMO licensing.

Consequently, it is contended that the Local Planning Authority should be satisfied that this proposal would be lawful.

Signed

A handwritten signature in blue ink, appearing to read 'C. Smith', is written over a faint, light blue circular stamp.

Colin Smith agent for the applicant

references

Circular 08/2010

Appeal 3245566

Appeal 2002582

Appeal 3132534

Appeal 3228639