

**WELWYN HATFIELD BOROUGH COUNCIL
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

DELEGATED APPLICATION

Application No: 6/2018/0406/LAWE
Location: 45 The Runway Hatfield AL10 9GL
Proposal: Certificate of lawfulness for an existing HMO
Officer: Mr William Myers

Recommendation: Granted

6/2018/0406/LAWE

Context	
Application Description	The application property is a three storey end of terrace dwellinghouse which is located to the south of The Runway. It has a small garden at its front and a larger garden at its rear.
Relevant Planning History	None
<p>The main issues are: Whether the applicant can demonstrate, on the balance of probabilities, that the use of '45 The Runway' as a C4 (HMO) is lawful</p>	
Discussion	
<p>Whilst the change of use from a C3 (dwellinghouse) to C4 (HMO) is normally a permitted change of use in terms of the GPDO, an Article 4 Direction covers the whole of Hatfield and means that planning permission is now required when owners intend to turn a dwelling house into a HMO for three to six occupants. The Direction does not affect such HMO's in existence prior to 12 January 2012.</p> <p>A certificate is sought on the basis that this property has been occupied as C4 HMO prior to 12 January 2012.</p> <p>Evidence submitted</p> <ul style="list-style-type: none"> • Signed Tenancy Agreements between 2011-until present time • A letter from WHBC (Private Sector Housing, 30/04/12) • A letter from WHBC (Private Sector Housing, 15/12/12) • A covering letter from Mr Spittlehouse <p>The onus of proof in a lawful development certificate application is firmly on the applicant and the Courts have held that the relevant test of the evidence on such matters is "the balance of probability". Moreover, the Court has held (see F.W. Gabbittas v SSE and Newham LBC [1985] J.P.L. 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the local planning authority has no evidence itself, nor from any others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the</p>	

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 Planning Practice Guidance reiterates that this is the approach to be taken by local planning authorities when determining certificate of lawfulness applications.

The evidence that the applicant has submitted indicates that the property has been rented as a C4 HMO for five people from at least September 2011. The evidence also demonstrate that this use has been continuous until the present date.

The Council's records have been checked as part of this application and no evidence has been found which contradicts the applicant's evidence. As a consequence it is considered reasonable and appropriate to recommend that this certificate of lawfulness application is granted.

Conclusion

The decision is based on the evidence available and on the balance of probabilities. The submitted evidence is considered sufficient to support the grant of a certificate. The Council is not presently in possession of any contradictory evidence to the above, therefore on the balance of probability, the application building would appear to have been used as a C4 HMO prior to 12 January 2012. On this basis, a Certificate of Lawfulness is approved.

DRAWING NUMBERS

The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
Location Plan		Location Plan	8 February 2018

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

1. POSITIVE AND PROACTIVE STATEMENT

The decision has been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

Determined By:

Mr Bright Owusu
9 April 2018

