

**WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT**  
**DELEGATED REPORT**

**APPLICATION No:** S6/2015/1142/LUE

**SITE ADDRESS:** 10 Horsa Gardens, Hatfield

**DESCRIPTION OF DEVELOPMENT:** Certificate of lawfulness for the use as a (Class C4) House in Multiple Occupation

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**RECOMMENDATION:** Approval

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**1. SITE AND APPLICATION DESCRIPTION:** The application site is a three-storey, terraced town house situated on the north side of an open green amenity area in the Salisbury Village area of Hatfield. The site has a small fenced front and rear gardens. The rear garden has a gate to the parking court where the property has use of three open spaces and one garage. The terrace is in four sections each of four similar properties. .

**2. SITE DESIGNATION:** The site lies within Hatfield Town as designated in the Welwyn Hatfield District Plan 2005.

**3. RELEVANT PLANNING HISTORY:**

S6/2001/1448/DE – 56 Dwellings. Approved 15.3.2002

S6/2001/1516/DE – Land adjacent to Hatfield Business Park, Spine Road. Approved 15.7.2002.

S6/2003/0307/DE – 142 Dwellings. Withdrawn 1.5.2003.

S6/2003/0957/DE – Phase 3 -322 Dwellings. Approved 23.10.2003.

S6/2005/0872/FP – Vary condition 2. Aprpoved 10.10.2005

S6/2005/1311/FP – Vary condition 3 of RMA. Approved 9.12.2005.

**4. CONSULTATIONS:** Not applicable

**5. NEIGHBOUR REPRESENTATIONS:** Not applicable

**6. TOWN/PARISH COUNCIL REPRESENTATIONS:** Not applicable

**7. DISCUSSION:**

Proposal

The application property was built as a residential dwelling. There have been no applications for change of use to an HMO. Before January 2012 change of use from a residential house (Use Class C3) to a small HMO (six or less residents) (Use Class

C4) was allowed under permitted development rights. Class C4 is defined as covering small shared houses occupied by between three and six unrelated individuals who share basic amenities such as kitchen and bathroom.

In January 2012 the Council introduced an Article 4 Direction covering the whole of Hatfield Town excluding all properties, including the application site from that permitted development right. Thereafter changes of use to a small HMO in Hatfield have required planning permission.

However, the Article 4 Direction was not applied retrospectively. Properties that were already in use as a small (C4) HMO were not required to apply for planning permission.

The applicant has applied for a Lawful Use certificate for use of the property as a (Class C4) HMO.

#### Evidence submitted with application S6/2014/2005/LUP

The applicant has submitted a letter, signed and dated 20<sup>th</sup> August 2015, that the property was used as an HMO from 2009 until they acquired it in June 2012. Evidence submitted in support of this statement includes a Tenancy Deposit Certificate from 28<sup>th</sup> June 2011 until 28<sup>th</sup> June 2012, Estate Agent's details printed in November 2011, a Council Tax Exemption Notice for the period 28 July to 31 August 2012 and some copies of miscellaneous mail sent to the occupants of the property dated 2009 and 2013.

They also state in a signed letter dated 20<sup>th</sup> that since June 2012 it has been in continuous use as an HMO for up to 6 students.

Additional information was obtained from the Council's Council Tax Department showing that the property has been occupied as follows:

September 2009 to July 2011 – 5 students  
September 2011 to July 2012 – 5 students  
September 2012 to August 2013 - four students  
September 2013 to August 2014 – six students  
September 2014 to August 2015 – six students.

#### Appraisal of the evidence of use

The key questions to address are

1. Whether there is sufficient evidence to prove that the property was in use as an HMO before the date the Article 4 Direction came into effect (12 Jan 2012) and
  2. Whether the property has been in continuous use as a small HMO since January 2012 or whether the use has lapsed back to a dwelling within Use Class C3.
1. The evidence submitted in support of the first question indicates that there was more than one person living at the property under a tenancy agreement for the year June 2011 to June 2012 and that they had different surnames. The property

as marketed in Estate Agent's details has five bedrooms and a lounge, although to accommodate six students the lounge would be used as a sixth bedroom. The kitchen and 2<sup>nd</sup> floor bathroom would be shared. Corroborating evidence from the Council's own records of student exemption from Council Tax shows that the property was a student HMO for the academic year 2011 to 2012. This period of time covers the date when the Article 4 Direction came into effect (12<sup>th</sup> January 2012). It is, therefore, concluded, in the light of the above and the absence of any evidence to the contrary, that the property was in use as an HMO before the Article 4 Direction was implemented.

2. The signed and dated letter submitted by the applicant states that the property has been used as an HMO occupied by between five and six occupants continuously since June 2012 up until today. Evidence of student exemption from Council Tax was available through Council records for the period September 2011 through to August 2015. Information provided by the Council's Private Sector Housing Department showed that the applicant had applied for an HMO License during the academic year 2012-13 and this was granted in October 2013. The licensing process normally takes a minimum of 6 months to complete, which indicates strongly that the property was in HMO use for that academic year. It is, therefore, concluded, in the light of the above and the absence of any evidence to the contrary, that the property was in continuous use as an HMO from before January 2012 up until the current time.

On the basis of the evidence submitted, corroborating evidence from the Council's own records and the absence of counter-evidence it is concluded that the property was in HMO use on 11<sup>th</sup> January 2012 and has since remained continuously in that use.

**8. CONCLUSION:** As a result of the evidence that has been provided for this application, the use of the property at 10 Horsa Gardens as a small HMO in use Class C4 is lawful.

**9. RECOMMENDATION: APPROVAL**

The area and building outlined in red on the site location plan received and dated 22 June 2014 can be considered to be Class C4 as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) on and since 12 January 2012 therefore the certificate of lawful use should be granted.

**First Schedule:** Certificate of lawfulness for the use as a Class C4 House in Multiple Occupation.

**Second Schedule:** 10 Horsa Gardens, Hatfield

**APPROVED DRAWING NUMBERS:** 1:1250 Site Location Plan & Transfer Plan received and dated 22nd June 2015

**Signature of author..... Date.....**