

LDC (Proposed) Report	Application number	2024/1204/P
Officer	Expiry date	
Sam FitzPatrick	21/05/2024	
Application Address	Authorised Officer Signature	
62 Falkland Road London NW5 2XA		
Conservation Area	Relevant article 4	
Kentish Town	None relevant.	
Proposal		
Change of use from house in multiple occupation (Class C4) to single dwellinghouse (Class C3).		
Recommendation:	Grant Lawful Development Certificate	

1.0 Site Description

1.1 The application site is located on the south side of Falkland Road, close to the intersection with Willingham Terrace. The site is within the Kentish Town Conservation Area.

2.0 Proposal

2.1 The host property is currently in use as a house in multiple occupancy (HMO) and is proposed to be used as a single dwellinghouse. The application seeks confirmation that the proposed change of use from a small HMO (Use Class C4) to a single dwellinghouse (Use Class C3) is lawful such that planning permission would not be required.

3.0 History

3.1 At the application site:

2023/3727/P – Regularisation of the former use of the property as House in Multiple Occupation (Class C4). **Certificate of lawfulness granted 18/03/2024.**

3.2 Related planning history (other sites in Camden):

2022/4261/P at 27 Sherriff Road – Change of use from house in multiple occupation (Class C4) to residential dwellinghouse (Class C3). **Certificate of lawfulness granted 06/02/2023.**

2022/3732/P at 65 Hillfield Road – Change of use from house in multiple occupation (Class C4) to residential dwellinghouse (Class C3). **Certificate of lawfulness granted 30/01/2023.**

2018/0695/P at 90 Leverton Street – Change of use from HMO (House in Multiple Occupation) to C3 (Dwellinghouse). **Certificate of lawfulness granted 19/04/2018.**

2017/1706/P at 34 Gloucester Crescent – Change of use from HMO (house in multiple occupation) (Class C4) to residential (Class C3) use to provide a 1-bed self-contained maisonette over 2nd and 3rd floor levels. **Certificate of lawfulness granted 17/05/2017.**

4.0 Responses

- 4.1 Given the nature of certificate of lawfulness applications, and in particular that purely matters of legal fact are involved in their determination, the Council does not have a statutory duty to engage in a formal consultation process.
- 4.2 Notwithstanding this, it is Council practice to allow a short period of time for local residents and amenity groups to comment should they choose to do so. As such, the details of the application were made available online for a period time prior to determination.
- 4.3 During this period, one local resident emailed to object to the proposal, mainly on the grounds that permission was previously granted for a rear extension (under ref.2021/5802/P) that incorrectly referred to the property as a C4 HMO, stating that this permission was only approved due to inaccurate information being provided.
- 4.4 Having carefully considered the response, it is not considered that any evidence has been provided to contradict or undermine the applicant's proposal or assertions. As noted in the report for 2023/3727/P, the previous application for the rear extension was assessed on the grounds of 'conservation and design' and 'amenity of neighbouring occupiers', so the use of the property would not have altered the acceptability of the proposal. Additionally, the application did refer to the property as an HMO, not as a single-family dwellinghouse. As shown in the planning history section of this report, the certificate of lawfulness granted on 18th March 2024 confirmed that the property has been in use as a small HMO under Use Class C4 for at least 10 years, and as such that the use is lawful.
- 4.5 Whilst the above concerns are noted, they are not a consideration in this type of application, where purely legal issues are involved in its determination.

5.0 Applicant's Evidence

5.1 The applicant has submitted the following information in support of the application:

- Location Plan
- Drawings to show layout of the house as currently occupied (297/03/200 P08; 297/03/201 P08; 297/03/400 P08; 297/03/401 P08; 297/03/402 P08; 297/01/500 P08).
- Planning statement dated 02/05/2024, which refers to certificate of lawfulness granted under planning reference 2023/3727/P (incorrectly referred to as 2024/1204/P, which is the reference for this application) to confirm lawful use of property as C4.

6.0 Assessment

6.1 With regards to applications for a Certificate of Lawfulness, the Secretary of State has advised local planning authorities that the burden of proof is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the "*balance of probability*", and authorities are advised that if they have no evidence of their own, nor any from others, to contract or otherwise make the applicant's version of events less probable, there is no good reason to refuse the application, providing that the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

6.2 A certificate of lawfulness was granted on the 18th March 2024 under planning reference 2023/3727/P, which confirms that the lawful use of the property is Use Class C4. This evidence is considered to be sufficiently precise and unambiguous, and the Council has no evidence to contradict or undermine the applicant's version of events.

6.3 As such, a proposed change of use from an HMO (Use Class C4) to a single dwellinghouse (Use Class C3) is lawful under Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and as such, a certificate of lawfulness can be issued.

7.0 Conclusion

7.1 The works for this application would be considered permitted development under Class L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.2 Grant Certificate of Proposed Lawful Development.