

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
24/00397/CPL	Hamish Rigg	03/07/2024

Address: 99 Edenfield Road, Rochdale, OL11 5AE

Proposal: Application for a certificate of lawfulness for use of premises for an online booking facility for a private hire company.

PUBLICITY	Weekly list expired?	Y	Site notice expired?	n/a
	Neighbour letters expired?	n/a	Press Notice expired?	n/a

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N

RECOMMENDATION	Grant Unconditionally
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CHECKED AND SIGNED OFF BY: RK

DATE: 04/07/2024

SITE

The application relates to 99 Edenfield Road, a two-storey end of terrace property on the junction with Churchill Street. Churchill Street is in the Spotland Area of Rochdale; a typical residential suburb comprised of mainly terraced and semi-detached housing, various public amenities, and a patchwork of green space.

The property faces north, fronting the pavement and overlooking the public highway. It is adjoined by no. 101 to the west and is flanked by Churchill Street to the east. The rear boundary of the curtilage faces south and borders an alley way serving the rear of properties along Edenfield Road and Viking Street.

PROPOSAL

Permission is sought for a Certificate of Lawful Development for the change of use of the premises to online booking facility for a private hire company.

RELEVANT PLANNING POLICY

The Town and Country Planning Act (1990) - S.192

- (1) If any person wishes to ascertain whether—
 - (a) any proposed use of buildings or other land; or
 - (b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.
- (2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
- (3) A certificate under this section shall—
 - (a) specify the land to which it relates;
 - (b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
 - (c) give the reasons for determining the use or operations to be lawful; and
 - (d) specify the date of the application for the certificate.
- (4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness

National Guidance

National Planning Practice Guidance (NPPG)

Burden of Proof

The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (PPG Paragraph: 006 Reference ID: 17c-006-20140306)

RELEVANT SITE HISTORY

None

CONSULTATION RESPONSES

None applicable

REPRESENTATIONS

In accordance with the Council's Code of Publicity for Planning Applications, this application has not been publicised.

ANALYSIS

S.55 of the Town and Country Planning Act 1990 sets out:

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land

In respect of changes of use, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 sets out "Where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land."

In assessing this application, it is necessary to understand the existing lawful use of the applicant property, and the use class under its proposed use. Where the existing and proposed use do not fall within the same use class, it is necessary to consider whether the proposed use would have a materially different impact on the environment and local amenities.

For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

In light of the planning history of the site, the LPA is content to consider the existing lawful use of the site as a C3 dwellinghouse.

By comparison, Use Class E includes Commercial, Business, and Service uses. An "online booking facility for a private hire company" would fall therefore fall under Use Class E.

Notwithstanding, while the proposed use would strictly fall under Class E, it is necessary to determine whether its proposed used would be considered a material change requiring planning permission. Where the proposed use falls within Class E but there is no material change to distinguish it from Class C3, the change of use would not constitute 'development' as per S.55(b) of the Town and Country Planning Act 1990, and a certificate of lawfulness may be issued.

The applicant has provided details of how the business currently operates and their future intentions. The business currently has one taxi which requires no physical access to the site. Bookings are made via phone or email and directed to the driver

away from the premises. The applicant wishes to expand the taxi fleet to include 2-10 vehicles, with no change to operational model. Currently no further staff have been hired. 99 Edenfield would remain designated for residential purposes, with the only commercial aspect being a mailing address for business correspondence.

The applicant has requested a Certificate of Lawful Development as a requirement in the licencing process which necessitates that the local planning authority are aware of the intended use of the property for business mail purposes.

Based on the information provided, the officer is satisfied that the change in use would not be materially different. The property would continue to operate as a residential premises with the only change relating to business mail. The level of detail provided by the applicant as to the current and future use of the property is considered to satisfy the requirements of the NPPG, and includes sufficient clarity to enable the local planning authority to understand exactly what is involved. Therefore the change of use from C3 to E is not deemed to be materially different for the purposes of Section 55 (1) of the 1990 Act, and planning permission would not be required.

RECOMMENDATION

Grant unconditionally

Reason:

The proposed use of the building would not result in the change of use of the building in the context of the Town and Country (Use Classes) Order (1987) (as amended). Considering the characteristics of the proposed use, as set out within the available evidence, the proposed change of use would not be material and therefore would not comprise development in accordance with the meaning set out under S.55 of the Town and Country Planning Act 1990 and would subsequently require planning permission.

Notes for Applicant:

For the avoidance of doubt, this permission relates to the following plans:

- Location plans: PP-13024303v1
- Cover letter (Ali Qadar, 01/05/2024)
- Cover letter (Ali Qadar, 10/05/2024)

Report Author Hamish Rigg