

APPLICATION NUMBER: 22/01260/CPL

Application Number:	22/01260/CPL
Location:	29B-29C First Floor Flat Milnrow Road Rochdale OL16 1UG
Proposal:	Certificate of lawfulness for proposed change of use from C4 (house in multiple occupation) to C3 (dwellinghouse)
Applicant:	Mr T Mitchell
Case Officer:	Jake Powell
Recommendation:	Refuse

Location

The application form specifies that the application relates to the first floor of no. 29 Milnrow Road.

The property is a two storey detached structure, with a tyre shop and work bay on the ground floor.

Description of Proposal

The applicant has applied for a certificate of lawfulness for the proposed change of use of a first floor flat from C4 (house in multiple occupation) to C3 (dwellinghouse).

Relevant History:

91/D26820 Change Of Use Of 1ST Floor From Storage To Living Accommodation (3 Bedsits) Grant subject to conditions

Representations

In accordance with the Council's code for publicity for this type of application, no letters of notification have been issued.

Legislation and Guidance

Town and Country Planning Act 1990

The Town and Country Planning (General Permitted Development) (England) Order 2015

Assessment

Section 191 of the Town and Country Planning Act directs that (1)If any person wishes to ascertain whether—

(a)any existing use of buildings or other land is lawful;

(b)any operations which have been carried out in, on, over or under land are lawful;
or

(c)any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, they may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

Section 191 further directs (2) For the purposes of this Act uses and operations are lawful at any time if—

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force

Schedule 2, Part C, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015, which provides permitted development rights, considers:

Development consisting of a change of use of a building—

- (a) from a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule;
- (b) from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.

Development not permitted

L.1 Development is not permitted by Class L if it would result in the use—

- (a) as two or more separate dwellinghouses falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order of any building previously used as a single dwellinghouse falling within Class C4 (houses in multiple occupation) of that Schedule; or
- (b) as two or more separate dwellinghouses falling within Class C4 (houses in multiple occupation) of that Schedule of any building previously used as a single dwellinghouse falling within Class C3 (dwellinghouses) of that Schedule.

The proposed change of use would convert one HMO into one self-contained flat, and as such the proposal would fall within the parameters of Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015.

However, the applicant has failed to provide accurate plans to which this certificate of lawfulness relates to, by reason of an incorrect location plan. As such a certificate of lawfulness cannot be granted.

RECOMMENDATION

Refuse, for the following reason:

The proposal would fall within the parameters of Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, the applicant has failed to provide accurate plans to which this certificate of lawfulness relates, by reason of an incorrect location plan. As such a certificate of lawfulness cannot be granted.

Notes for applicant:

For the avoidance of doubt, the decision relates to the following drawings:-

- Location Plan

- 1193.01 Existing & Proposed Floor Plans
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	Date	Officer
Report Completed	10/11/2022	Signed: Jake Powell
Authorisation	18/11/2022	Signed: Alison Truman

Report Author Jake Powell