

APPLICATION NUMBER: 24/01029/CPL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/01029/CPL

CASE OFFICER

Sam Yuen

DETERMINATION DATE 26.12.2024 EXT OF TIME

Address: 29 Waterman View, Rochdale, OL16 2XB

Proposal: Application for a certificate of lawfulness for use of premises for a private hire business from home

PUBLICITY	Weekly list expired?	N/A	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/A

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/A

RECOMMENDATION

GRANT UNCONDITIONALLY

CHECKED AND SIGNED OFF BY: RK

DATE: 18/12/2024

SITE

The application relates to no. 29 Waterman View, a three-storey end terrace dwelling located in a cul-de-sac in Belfield. The property is sited within a residential context and backs onto a woodland area to the south and the grounds of Belfield Community School to the east.

PROPOSAL

Certificate of lawfulness is sought for the use of the premise (Class C3) as a private hire business (Class E) operating from home.

RELEVANT PLANNING POLICY

Town and Country Planning Act 1990 Section 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)

RELEVANT SITE HISTORY

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

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

ANALYSIS

The NPPG provides guidance on the determination of lawful development certificates, where the LPA needs to consider whether, on the facts of the case and relevant planning law, the specific matter would be lawful. Planning merits are not relevant at any stage in this particular application.

With regard to the burden of proof, the NPPG notes that *"the applicant is responsible for providing sufficient information to support an application... In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved."* (Paragraph: 006 Reference ID: 17c-006-20140306)

Section 55 of the Town and Country Planning Act 1990 has established the definition of "development" to mean *"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."*

Section 55(2)(d) of the Town and Country Planning Act 1990 sets out *"the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such"* would not be taken to involve development of the land.

Therefore, the main consideration for the lawful development certificate is whether, based on the information submitted, the proposed use would be incidental to the use as a dwellinghouse and would result in a material change of use of a dwellinghouse requiring planning permission.

The applicant has stated the operation of the private hire business from home is limited to administrative tasks such as handling phone calls, online bookings and managing drivers. The business would not result in increase in vehicular and foot

traffic and would not have a noticeable increase in noise beyond what is expected for a private residential property. No structural changes or renovations to the dwelling, including external signage would be carried out to operate the business.

Based on the information provided, the proposed private hire business use would be limited to office-related tasks that would not change the character of the property as a dwellinghouse and would allow residential functions to remain its primary use. As such, the LPA is satisfied the proposed use would be incidental to the enjoyment of the dwellinghouse and would not amount to a material change of use of the property as a single dwellinghouse.

RECOMMENDATION: GRANT UNCONDITIONALLY

1. 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 Section 55 of the Town and Country Planning Act 1990 and would subsequently not require planning permission.

Notes for Applicant:

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

- Location Plan – received 31/10/2024

Report Author Sam Yuen