

## COMMITTEE REPORT

**Date:** 7 February 2019      **Ward:** Clifton  
**Team:** Householder and      **Parish:** Clifton Planning Panel  
Small Scale Team

**Reference:** 18/01443/CLU  
**Application at:** 33 Burton Green York YO30 6JZ  
**For:** Certificate of lawfulness for use as a House in Multiple Occupation within Use Class C4.  
**By:** Rev. Christopher Cullwick  
**Application Type:** Certificate of Lawful Existing Use  
**Target Date:** 14 February 2019  
**Recommendation:** Grant

### 1.0 PROPOSAL

1.1 The application is for a certificate of lawfulness for use as a house in multiple occupation (Use Class C4).

1.2 The application is before sub-committee because the applicant is a City of York Councillor.

### 2.0 CONSULTATIONS

2.1 No comments received.

### 3.0 APPRAISAL

3.1 On 20 April 2012 an Article 4 Direction revoking permitted development rights for the change of use of a Use Class C3 (Dwellings) to Use Class C4 (Houses in Multiple Occupation) came into force for the York urban area.

3.2 The key issue in the determination of this application is whether the applicant has demonstrated on the balance of probability that the existing use of the site as a House in Multiple Occupation commenced at a point prior to 20 April 2012 and has continued in such use until the present date.

2.2 Government Guidance relating to lawful development certificates states that the applicant is responsible for providing sufficient information to support an application to demonstrate whether a use is lawful or not. In the case of an application for an 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.

## EVIDENCE IN SUPPORT OF THE APPLICATION

3.3 The applicant has supplied the following information in support of their application:

- a) a copy of a lease granted to Restore (York) Ltd. (a charity that houses homeless people) from 1 February 2012 to 1 February 2018
- b) a copy of letter dated 5 June 2018 from Restore advising that they leased the property from February 2012 to January 2018 and that it was used continuously by up to 5 unrelated people and a Statutory Declaration dated 5 December 2018 backing the claims made in this letter
- c) a letter (no date) from Youth With A Mission (a Christian missionary organization) which advises that it had a temporary let on the property between 15 January 2018 and 23 May 2018 and that it was used continuously by at least 3 unrelated occupants
- d) a statement from the applicant that after 23 May 2018 the property was cleaned and redecorated and that a group of tenants occupied the property on a 12 month tenancy on 13 July 2018
- e) a copy of a tenancy document for the property for 4 people between 13 July 2018 and 23 June 2019

## EVIDENCE AGAINST THE APPLICATION

3.4 No information or comments to contradict the evidence submitted by the applicant has been submitted.

## ASSESSMENT

3.5 Restore (York) Ltd have confirmed in writing that whilst they used the property they provided floating support for its tenants. Each tenant occupied their own room with a tenancy agreement and shared common areas; bathrooms, kitchen and lounge. However, there was no staff office or base at the property, no Restore staff lived there and it was never run or used as a hostel. Officers are satisfied that this establishes that the application property was not used as a hostel.

3.6 It is considered that the Tenancy Agreements together with the Statutory Declaration from Restore (York) Ltd. and other supporting information indicate that, on the balance of probability, a Use Class C4 status had been established at the property on the key date of 20th April 2012 and has continued until the present date.

## 3.0 CONCLUSION

3.1 On the balance of probability the property was in use as a House in Multiple Occupation (Use Class C4) on 20 April 2012, prior to the introduction of the Article 4 Directive removing permitted development rights for changes of use between Use Class C3 (Dwellinghouses) to Use Class C4 (Houses in Multiple Occupation), and has continued to be used in such a manner up to the present date. A Certificate of Lawful Development for this use is therefore justified.

#### **4.0 RECOMMENDATION: Grant**

1 The local planning authority is satisfied that, on the balance of probability, the property was in use as a House in Multiple Occupation (Use Class C4) for up to 3 occupants on 20 April 2012, prior to the introduction of an Article 4 Directive removing permitted development rights for changes of use between Use Class C3 (Dwellinghouses) and C4 (Houses in Multiple Occupation) and remains so on the date of this application.

#### **Contact details:**

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