

Committee: **PLANNING**

Date of Meeting: **18 August 2010**

Title of Report: **S/2010/0922**
15 Galloway Road, Waterloo
(Church Ward)

Proposal: Lawful development certificate as a house in multiple occupation

Applicant: Mr Steve Latham

Executive Summary

The application is for a Certificate of Lawfulness to establish the lawful use of the premises solely as a House in Multiple Occupation. The application must be assessed on the basis of the evidence submitted by the applicant, who must prove on the balance of probabilities that the use has been in operation for a minimum of 10 years. It is considered that insufficient evidence has been submitted in this case.

Recommendation(s) Refusal

Reason

1. Insufficient information has been submitted to demonstrate that on the balance of probabilities, the premises have been occupied as an HMO for at least 10 years.

Drawing Numbers

Location plan, Floor plan, Photographs, Supporting evidence

Financial Implications

CAPITAL EXPENDITURE	2006/ 2007 £	2007/ 2008 £	2008/ 2009 £	2009/ 2010 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
REVENUE IMPLICATIONS				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

List of Background Papers relied upon in the preparation of this report

History referred to
Policy referred to



Sefton Council Planning & Economic Regeneration Department Andy Wallis - Director <small>Planning & Economic Regeneration is part of the Regeneration & Environmental Services Directorate</small>		S/2010/0922 & 0920 15 Galloway Road Waterloo L22 4QX OSGR: 332293, 398814 Sheets: 108A Area: 196 sqm		Standard Site Plan Scale: 1:1250 Date: 3/8/2010 Drawn By: EBERT on	
<small>This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Sefton Council Planning & Economic Regeneration Department using MapInfo Sefton Council Licence No. 1000181921</small>		<small>Created by Sefton Council Planning & Economic Regeneration Department using MapInfo</small>		Ward(s): Church Postcode Sector(s): L22 4 Polling District(s): E3 Parish(es): None Found	

The Site

The site forms a 2 and a half storey semi-detached Victoria house. It is positioned on the northern side of Galloway Road, with residential properties of similar style on either side and in the surrounding area.

Proposal

Lawful development certificate as a house in multiple occupation

History

Enforcement Notice issued regarding existing use as 5 self-contained flats plus 3 letting rooms.

Hearing to be held on 4 and 5 November 2010.

Consultations

None

Neighbour Representations

Last date for replies: 28 July 2010

None received.

Policy

As an application for a Certificate of Lawfulness, planning policy is not relevant.

Comments

As a certificate of lawfulness, the issue for consideration is whether sufficient evidence has been submitted by the applicant to determine, on the balance of probabilities, that the proposed use has been in operation for a minimum number of years. For self-contained flats the relevant period is 4 years. For an HMO the relevant period is 10 years.

It is considered that the relevant periods to be examined in this case are 4 years for the self-contained flats and 10 years for the HMO element of the premises. However, the applicant has submitted an application for the use as an HMO only. As such the application is assessed in the light of the 10 year period.

The applicant has been the owner of the property since 2000. An HMO licence has been issued by the Council valid between 12 February 2010 and 11 February 2011 for a maximum of 9 people.

A statement has been submitted by the applicant. However this is not a sworn statement or affidavit and must therefore hold little weight in the consideration of the application. This states that 'some rooms have ensuite washing facilities, some have single and others double beds and some have small kitchenettes'. This describes some self-contained units and therefore not simply letting rooms in an HMO. The applicant asserts that the property was an HMO when he bought it, but no evidence is submitted to substantiate this claim. The applicant has failed to submit evidence such as bills and tenancy agreements dating over the past 10 years.

The application is accompanied by a quotation for work to the premises dated May 2009. This does not add to the evidence that the premises have been occupied as an HMO.

A list of occupants is supplied, but no details of the length of time they have occupied rooms or flats and no copies of tenancy agreements.

A letter from a former tenant states that he occupied 15 Galloway Road between 1 August 2009 and 15 December 2009. This does not provide evidence of occupation for a period of 10 years.

The applicant has submitted an extract from a barrister's opinion, stating that 'it would be extraordinary if a property had been licensed as an HMO by the housing but was not considered as such by the planning authority'. Definitions of an HMO as given, but these are in relation to the Housing Act 2004, not the Planning Acts.

The definition of an HMO under the Housing Act 2004 is specific to that legislation and contains criteria which are not repeated in the Planning Acts or regulations. The fact that the applicant has complied with Building Regulations and Environmental Protection regulations does not imply that Planning regulations are fulfilled. Nor does it imply that the proposal is acceptable in planning terms.

The Council's own information would suggest that the property has not been in use as a single family dwelling for some time. However, from investigations by officers it would appear that the lawful use is more likely to be as 2 self-contained flats and HMO consisting of 4 rooms, ie not solely as an HMO as asserted by this application.

In assessing the information submitted to support the application, there is no formal evidence to confirm that the property has been let to a number of people over the last 10 years. This case is only asserted by the applicant.

Therefore, insufficient information has been submitted to demonstrate that on the balance of probabilities, the premises have been occupied as an HMO for at least 10 years.

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