

Committee: **PLANNING**

Date of Meeting: **18 August 2010**

Title of Report: **S/2010/0923**  
**63 Handfield Road, Waterloo**  
(Church Ward)

Proposal: Lawful Development Certificate for the continuation of use as a house in multiple occupation

Applicant: Mr Steven 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

<b>CAPITAL EXPENDITURE</b>	<b>2006/ 2007 £</b>	<b>2007/ 2008 £</b>	<b>2008/ 2009 £</b>	<b>2009/ 2010 £</b>
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<b>REVENUE IMPLICATIONS</b>				
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  
Planning & Economic Regeneration is part of the  
 Regeneration & Environmental Services Directorate

S/2010/0921 & 0923  
 63 Handfield Road  
 Waterloo  
 OSGR: 332141, 398372    Sheets: 1066    Area: 206 sqm

**Standard Site Plan**  
 Scale: 1:1250  
 Date: 3/8/2010  
 Drawn By: EBERT on

Ward(s): Church  
 Postcode Sector(s): L22 0  
 Polling District(s): E3  
 Parish(es): None Found

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## **The Site**

The site forms a 3 storey terraced Victoria building, formerly occupied as a single family dwelling. It is positioned on the northern side of Handfield Road, with similar residential properties on either side and a school to the rear.

The character of the surrounding area is typified by 3 storey terraced residential properties, most of which are occupied as single family dwellings.

## **Proposal**

Lawful Development Certificate for the continuation of use as a house in multiple occupation

## **History**

Enforcement Notice issued regarding use as 5 self-contained flats and HMO consisting of 4 rooms.

Hearing to be held on 4 and 5 November 2010

## **Consultations**

None

## **Neighbour Representations**

Last date for replies: 29 July 2010

One letter from 57 Handfield Road stating that 'This is a recent development of the property within the last year following the death of an elderly neighbour and subsequent sale of the property'.

## **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 is 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.

Estate agent particulars have been submitted. This document is not dated. It describes the building as 'A three storey terraced property in need of modernising throughout and comprising 2 reception rooms, morning room, kitchen, 5 bedrooms over 2 floors. Two of the bedrooms have been fitted with kitchens, bathroom and separate w/c'.

Although 2 kitchens had been installed, the particulars do not indicate that elements of the property have been let to different occupiers. It appears that the lawful use of the building at the time of this sale was as a single family dwelling.

An HMO licence has been issued by the Council valid between 5 May 2010 and 4 May 2011 for a maximum of 9 people.

An extract from a barristers opinion has been submitted, 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.

Photographs are referred to by the applicant kitchens and bathrooms removed as being old. This does not demonstrate how the premises were occupied. Only that kitchens and bathrooms removed were likely to be some years old.

A list of people occupying flats and rooms has been submitted with details of rent payments dated April, May and June 2010.

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. In this the applicant states that he has been the landlord since 2003.

The applicant has failed to submit evidence such as bills and tenancy agreements dating over the past 10 years.

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.

## **Reason**

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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Case Officer: **Mrs A Dimba Telephone 0151 934 2202**