

Officer's Report

Application Number	HGY/2023/0841
Type	Lawful development: Proposed use
Location	54 The Avenue, Tottenham, London, N17 6TD
Proposal	Certificate of Lawfulness for proposed change of use from a C3(a) single family dwelling to C3(c) for use by a religious community (allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger).
Case Officer	Laina Levassor
Valid Date	27/03/2023
Applicant	Adams
Agent	Joshua Valler-Feltham

RECOMMENDATION

Refuse

PLANNING HISTORY

The planning history of the site has been taken into account when coming to this decision.

RELEVANT PLANNING LEGISLATION

The application has been made under section 192 of the Town and Country Planning Act 1990 and relevant amendments. This not a planning application but instead the applicant seeks confirmation that the proposed development is lawful. As such, the impact of the proposed development of the neighbour's amenities or the character of the area cannot be taken into consideration for this submission.

ANALYSIS/ASSESSMENT OF THE APPLICATION

Section 192 states that if on application under this section, the LPA 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 application, they shall issue a certificate to that effect – in any other case they shall refuse the application.

This section also requires an application to "describe precisely" what is being applied for and without sufficient or precise information, the LPA may be justified in refusing a certificate. 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.

As this application proposes a change of use within the same use class, the test is whether:

1. The information provided to the LPA is satisfactory in determining the proposed use would be lawful; and
2. Whether the information provided to the LPA is sufficient and precise.

The application form for this application states:

"The proposed house will be used for the purpose of a religious community whose principal occupation is prayer, contemplation, education."

Once this is approved the landlord will be able to go under freedom of religion and discuss with the local head of the Church, Mosque or Temple and various other religious groups to utilise this as a religious commune living space that will also be used to educate the occupants of this house in the ways of that specific religion, whether that be with bible study or the study of the Quran will depend on which group is suited best for this religious community living space.

Furthermore dependant on the religion there will be prayers for the occupants of this religious community, this may take place 5 times a day if for example, a Muslim community moves in or 3 times a day if a Jewish community moves in.

The exact set-up can only be made clear once approval has been received so that the right religious community will be able to utilise this religious community living space for its specific community, it would be prejudiced to not approach all the local faith leaders in the area, whether that be Buddhism, Christianity, Hinduism, Islam or Judaism.

The main purpose for this house is exactly as we have said, and is like you have described a religious community whose principal occupation is prayer, contemplation, education etc”

By the applicant's own admission, there is uncertainty surrounding the 'exact' proposed use. The applicant has not been able to "describe precisely" how the use and criteria of C3(c) as described in this submission would meet the use as described in the Use Class Order. **As the Order states, a small religious community *may* fall within Use Class C3(c).** Which implies not all small religious communities do. Without much more detailed and precise information with regard to the group seeking to occupy the premises, their numbers, the nature of the religious activities that would take place, the use of specific rooms within the property, demonstrating how the group would occupy and use the premises as single household, it is not possible to state that the use proposed would, on the balance of probabilities, fall within Use Class C3(c).

In addition to this, the LPA's records which show the owner of the application site attempted to obtain a HMO license for the property within recent years. Without sufficient information available for assessment, it also cannot be concluded how the proposed use differs to that of a HMO for a site that falls within an area covered by an Article 4 Direction, restricting these types of conversions.

CONCLUSION

The submission fails to allow the LPA to conclude whether the works in question would on the balance of probabilities constitute a lawful change of use and this certificate cannot be granted.

RECOMMENDATION

Refuse certificate for the following reason(s):

Refusal Reasons:

The application does not demonstrate that the proposed change of use of the property would constitute a lawful change of use.