Development Management – Delegated Officer Report

Application Number: AWDM/0005/25 **Recommendation – ISSUE**

Site: **2A The Green, Southwick**

Proposal: **Application for Certificate of Lawfulness for proposed change of use of first floor from 2 bed flat (Use Class C3) to 3-bed HMO (Use Class C4)**

Date of site visit: Not visited

Neighbours checked: N/A

Additional neighbour notifications: N/A

Site and Surroundings

The application relates to a two storey flat-roofed, detached building on a triangular plot on the corner of Grange Road and Watling Road. It sits adjacent to the railway line and the bridge over Grange Road. It is located within the Southwick Conservation Area.

There is a detached flat-roofed single-storey storage building fronting Watling Road which is separated from the main building by a semi- enclosed yard. The building was in long-standing retail use (E class), being occupied for more than 10 years as a kitchen showroom with associated offices and storage. Planning permission was granted in 1999 (reference SW/63/99/TP/18170) for the change of use of the first floor flat to form part of the shop.

Permission was granted under NOTICE/0009/23 for a change of use from Class E to a mixed use of Class E on the ground floor with 1no. 2 bedroom flat (C3) on the first floor.

Proposal

A Certificate of Lawfulness is sought for the proposed use of the first floor flat as a small, 3 bedroom house in multiple occupation (HMO) (Use Class C4).

The submitted drawings show 3no. bedrooms on the first floor, plus 1no. kitchen and 1no. shower room. The ground-floor would remain as a commercial unit (currently a coffee shop).

Relevant Planning History:

NOTICE/0009/23 Application for Prior Approval for change of use from Commercial, Business (Use Class E) to mixed use comprising Class E on ground floor with 1no. 2- bedroom flat (Class C3) on first floor

Consultations: None

Representations: N/A

Relevant Planning Policies

National Planning Policy Framework (MHCLG 2024)
National Planning Practice Guidance
Town & Country Planning (General Permitted Development) Order 2015 (As Amended)

Planning Assessment

The relevant consideration here is the facts of the case and the relevant planning law. The planning merits of the proposal are not relevant matters for consideration. The determination of an application for a Certificate of Lawfulness for a Proposed Use or Development is restricted to consideration of the lawfulness of the proposal. The issue for consideration is whether the proposal needs planning permission by means of an application, or alternatively may be carried out without any such need because it is not development, or is permitted development, or is 'de Minimis', or is not a material change of use, or is immune from enforcement and so has achieved lawfulness.

The relevant test for such an application is whether, on the balance of probabilities, the applicant has proven the proposed use is lawful in planning terms.

The change of use of a dwelling house within Class C3 to a use falling within Class C4 (Houses in Multiple Occupation) is permitted development under the provisions of Schedule 2 Part 3 Class L of the Town and Country Planning (General Permitted Development) Order (as amended).

Class C4 is defined in the Use Classes Order (as amended) as use of a dwelling house by not more than six residents as a house in multiple occupation.

The layout shows a total of 3 bedrooms. The kitchen and shower room would be shared. The proposed layout meets the definition of a house in multiple occupation (S254 of the Housing Act 2004).

There is no Article 4 Direction in place removing permitted development rights for changes of use to Class C4.

Planning permission would not be required for a change of use of this property to a 3-bed HMO (Use Class C4).

Recommendation

ISSUE CERTIFICATE:-

The proposed change of use from Use Class C3 'dwellinghouse' to Class C4 ‘small HMO' constitutes permitted development under the provisions of Article 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). This Certificate relates to the evidence set out in the submitted Planning Statement and the proposed layout shown on Drg: A-03 Proposed Floor Plans dated 03.01.2025.

The proposed use as described is not liable to enforcement action under Section 172 of the Act. However, any other development/intensification or change in circumstance carried out other than as shown on the above-mentioned approved drawing, or as detailed within the Supporting Statement, may be liable to formal enforcement action by the Local Planning Authority.

This Certificate only makes lawful the use referred to above and does not provide immunity from enforcement for any other use.

Is recommendation contrary to letter(s) of representation? N/A

Case Officer:	Peter Barnett	Date: 4 March 2025
Authorised by:	Louise Prew	Date: 4 March 2025