

DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

APPROVAL RECOMMENDED: GENERAL

Select an Option

1.	No valid planning application objection in the form of a petition of 20 or more signatures, has been received	☐
2.	Application complies with all relevant planning policies and is acceptable on planning grounds	☐
3.	There is no Committee resolution for the enforcement action	☐
4.	There is no effect on listed buildings or their settings	☐
5.	The site is not in the Green Belt (but see 11 below)	☐

REFUSAL RECOMMENDED: GENERAL

6.	Application is contrary to relevant planning policies/standards	☐
7.	No petition of 20 or more signatures has been received	☐
8.	Application has not been supported independently by a person/s	☐
9.	The site is not in Green Belt (but see 11 below)	☐

RESIDENTIAL DEVELOPMENT

10.	Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha	☐
11.	Householder application in the Green Belt	☐

COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT

12.	Change of use of retail units on site less than 1 ha or with less than 1000 sq. m other than a change involving a loss of A1 uses	☐
13.	Refusal of change of use from retail class A1 to any other use	☐
14.	Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use.	☐

CERTIFICATE OF LAWFULNESS

15.	Certificate of Lawfulness (for proposed use or Development)	☐
16.	Certificate of Lawfulness (for existing use or Development)	☐
17.	Certificate of Appropriate Alternative Development	☐

CERTIFICATE OF LAWFULNESS

18.	ADVERTISMENT CONSENT (excluding Hoardings)	☐
19.	PRIOR APPROVAL APPLICATION	☐
20.	OUT-OF-BOROUGH OBSERVATIONS	☐
21.	CIRCULAR 18/84 APPLICATION	☐
22.	CORPSEWOOD COVENANT APPLICATION	☐
23.	APPROVAL OF DETAILS	☐
24.	ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where the Heads of Terms have already received Committee approval	☐
25.	WORKS TO TREES	☐
26.	OTHER (please specify)	☐

The delegation powers schedule has been changed. Interim Director of Planning, Regeneration & Public Realm can determine this application

Case Officer:

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informative's are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DETAILS SHOULD BE USED IN THE PS2 RETURNS ODPM

Report of the Head of Development Management and Building Control

Address: 20 CENTRAL AVENUE HAYES MIDDLESEX

Development: Existing use as a flat (Application for a Certificate of Lawful Development for an Existing Use)

LBH Ref Nos: 58347/APP/2023/2568

Drawing Nos: Cover Letter

Date Plans received: 01-09-23 **Date(s) of Amendments(s):**

Date Application valid 01-09-23

1. RECOMMENDATIONS

1.1 Recommendations

That a certificate of lawful use or development be **REFUSED** for the existing development described above in respect of the land edged red on the attached plans for the following reasons:

The existing development does not constitute Lawful Development under Section 191 of Town and Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 as the Applicant has not demonstrated that, on the balance of probability, the use has existed and been continuous for at least a period of four years, prior to the date of this application.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

2.0 APPRAISAL OF EVIDENCE SUBMITTED

The application seeks a certificate of lawful development for the existing use of the application property as a flat.

The application property comprises of a two storey semi-detached house located on the South Eastern side of Central Avenue adjacent to Botwell Green Sports and Leisure Centre and within the Central Avenue Area of Special Local Character. The property has been previously extended to the side by way of a single storey side/rear extension which was allowed at appeal. The applicant seeks to prove that the side/rear extension which is accessed via a door in the side elevation, has a lawful use as a separate dwelling.

In order for a Lawful Development Certificate to be granted under Section 191 of the Town and Country Planning Act 1990, the burden of providing relevant facts rests on the applicant, and the test of the evidence is the balance of probability. If there is no evidence to contradict or make the applicant's version of events less than probable and the applicant's evidence alone is sufficiently precise and unambiguous, a Lawful Development Certificate should be granted.

EVIDENCE

The application comprises of the following submission:

An application by Bancil Partnership Limited (the "Agent") made on behalf of Jinderpal Hayer (the "Applicant") enclosing completed application form (dated 31.08.2023) and the following accompanying documents:

- Electrical Installation Condition Report dated 10.05.2022, 14.05.2019,
- Landlord/Homeowner Gas Safety Record dated 24.02.2022, 20.02.2020, 27.02.2021, 18.02.2019
- Court Summons for Non-Payment of Council Tax dated 17.08.2011
- Affidavit of the Applicant dated 14.07.2023
- Correspondence from Centremark Properties Limited dated 22.02.2022
enclosing letters from Uxbridge College of 27.02.2012, 16.05.2012, 21.03.2013, 27.03.2013, 6.09.2013,
William Morris Sixth Form of 21.02.2012, Kingston College of 24.10.2013
- Correspondence from Hillingdon Council dated 22.11.2013
- Council Tax Bill for 2011/2012
- Council Tax payment receipts of 10.5.13, 10.09.2013 and 5.10.2013
- Insurance documents to include correspondence from Gresham Underwriting
Limited enclosing policies for 2019-2020, 2020/21, 2021/22, Insurance Choice enclosing
policies for 2022/23,
and 2023/22024
- Lodger Agreements dated 01.09.21 (term of 12 months), 1.03.2021 (term of 6 months), 25.10.2019 (term of 24 months), and 1.08.2018 (term of 18 months)
- Location Plan
- Existing Floorplans

ASSESSMENT OF LAWFULNESS

The legal test requires that evidence be provided to show that the application property has been in continuous use as a residential home for four years, continuously.

The Council's Legal Officer was consulted on the application and provided the following comments:

This application concerns a certificate of lawfulness for the existing use as a flat.

The applicant states that the property has been used as a flat since 2012, being more than 4 years before the date of the application. The Council would therefore need confirmation that the use claimed has been continually carried out without interruption for a continuous period of 4 years prior to the application, which means the date starts to run from 31.08 2019.

I note from the evidence that no bank statements clearly showing receipt of rent have been

provided as part of the application. We would normally expect to see evidence of this nature in support of the application; however, none were provided. The applicant did submit an affidavit confirming among others that over the last four years the property has been continuously rented out. I have seen lodger agreements as detailed above; however, they do not cover the entire 4-year period. I would advise that you also check the lodger agreements to be completely satisfied of the period that these agreements cover. Whilst the Council Tax bills and correspondence from the Council date back to 2012, they do not of themselves show that the property has been continually used as a flat for the last 4 years. The same would be true of the Electrical Installation Condition Report of 2019 and 2022, the Landlord/Homeowner Gas Safety Record of 2019- 2022, and the insurance documentation.

In conclusion, the evidence provided is not sufficiently precise and unambiguous to demonstrate that the property has been in continuous and uninterrupted use (as a flat) for at least a period of four years prior to the date of this application. I would therefore suggest as set out above, that you satisfy yourself in respect of lodger agreements, and request bank statements evidencing receipt of rent. It is my view that the certificate should only be granted if you are satisfied that there is no contrary evidence.

CONCLUSION

The evidence provided by the application is not sufficient to conclude unambiguously that the development has been in continuous occupation for at least 4 years prior to the application. As such the application is recommended for refusal.

3.0 Relevant Planning History

58347/APP/2017/135 20 CENTRAL AVENUE HAYES MIDDLESEX

Use of single storey side extension as a 1 bedroom self contained flat (Application for a Certificate of Lawful Development for an Existing Development)

Decision Date: 13-02-2017 Refused

ENF/1008/16

PEO - Unaut Use of Outbuild As Self-Contained

Decision Date: No Further Action(P)

58347/APP/2008/2139 20 CENTRAL AVENUE HAYES MIDDLESEX

Front porch (involving demolition of existing porch).

Decision Date: 09-09-2008 Approved

58347/APP/2007/1852 20 CENTRAL AVENUE HAYES MIDDLESEX

ERECTION OF A SINGLE STOREY SIDE AND REAR EXTENSION (INVOLVING DEMOLITION OF PART OF REAR GROUND FLOOR AREA).

Decision Date: 09-08-2007 Refused

58347/APP/2004/3300 20 CENTRAL AVENUE HAYES MIDDLESEX

ERECTION OF SINGLE STOREY SIDE AND REAR EXTENSION (INVOLVING DEMOLITION
OF EXISTING REAR CONSERVATORY AND BATHROOM)

Decision Date: 27-01-2005 Approved

Contact Officer: Nicola Taplin **Telephone No:** 01895 250230