

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: 84 TOLCARNE DRIVE PINNER

Development: Proposed change of use from a Residential dwelling (Class C3) to a 6-persons max small HMO (Class C4) (Application for a Certificate of Lawful Development for a Proposed Development)

LBH Ref Nos: 35338/APP/2024/1664

Drawing Nos: Location Plan
Cover Letter
84TD -PL -00
84TD -PL -01
84TD -PL -02
84TD -PL -04
84TD -PL -05
84TD -PL -06
84TD -PL -07
84TD -PL -08
84TD -PL -09
84TD -PL -10

Date Plans received: 24-06-24 **Date(s) of Amendments(s):**

Date Application valid 01-07-24

1. RECOMMENDATIONS

1.1 Recommendations

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

Due to the internal size of the bedrooms, the HMO would have an occupancy level of above 6 persons and would be classed as a large HMO (Sui Generis) use that would require the submission of a full planning application. As such it would fail to meet Class L, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015.

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

INFORMATIVES

2.0 Planning Considerations

The application is seeking a certificate of lawful development for the conversion from a residential dwellinghouse (Class C3) to a 6-bed HMO (Class C4) (Application for a Certificate of Lawful Development for a Proposed Development).

The question before the Council is therefore limited to whether the physical works to the property would constitute permitted development and whether or not the change of use of the dwelling from C3 to C4 represents permitted development.

The proposal clearly involves development as defined in the Planning Acts. The site is not situated within a Conservation Area, World Heritage Site or AONB, and benefits from permitted development rights. Permitted development rights have not been revoked by a planning condition for any of the proposed works. There is no Article 4 Direction restricting the proposed development.

Schedule 2, Part 3, Class L of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) outlines permitted development rights for the change of use of a C3 dwelling House to a C4 HMO. Class L states:

Class L - small HMOs to dwellinghouses and vice versa

L. Development consisting of a change of use of a building-
(a) from a use falling within Class C4 (houses in multiple occupation) of the schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that schedule;
(b) from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.

Development not permitted

L.1 Development is not permitted by Class L if it would result in the use -

(a) as two or more separate dwellinghouses falling within Class C3 (dwellinghouses) of the Schedule
to the Use Classes Order of any building previously used as a single dwellinghouse falling within Class C4 (houses in multiple occupation) of that Schedule; or
(b) as two or more separate dwellinghouses falling within Class C4 (houses in multiple occupation) of that Schedule of any building previously used as a single dwellinghouse falling within Class C3 (dwellinghouse) of that Schedule.

C4 (House in multiple occupation) is a small shared houses occupied by between three and six unrelated individuals as their only or main residence, who share basic amenities such as a kitchen or bathroom.

Assessment:

It is noted that a previous application for a Certificate of Lawful Development for an identical proposal was refused in June 2024 under application reference 35338/APP/2024/862. Additional

information has been submitted within this application in the form of recent site photographs evidencing recent works to the property, and a copy of the tenancy agreement for the proposed HMO.

The submitted application form and proposed plans state that the conversion would result in a 6 bedroomed HMO with internal accommodation as follows:

- Bedroom 1 - 14.68 sqm + en-suite (3.3 sq m)
- Bedroom 2 - 11.10 sqm + en suite (3.13 sq m)
- Bedroom 3 - 10.20 sqm + en suite (3.17 sq m)
- Bedroom 4 - 12.66 sqm + en suite (3.07 sq m)
- Bedroom 5 - 10.14 sqm + en suite (3.02 sqm)
- Bedroom 6- 10.20 sqm + en suite (2.03 sqm)
- Hallway: 12.08 sqm
- Shared Kitchen / Dining Area: 17.62 sqm

Given the internal floorspace of the bedrooms, it is considered that bedrooms 1 and 4 would both be capable of use by up to two occupants, according to the internal space standards as set out within the London Plan (2021). Given the presence of four single bedrooms and two double bedrooms, it is considered that the HMO would be capable of use by up to 8 occupants, contrary to the stated maximum of 6 occupants stated within the application. This would be considered to breach the permitted development threshold. The additional information submitted in respect of tenancy agreements does not change this consideration.

It is concluded that within this current application, due to the size of the bedrooms within the property, the dwelling could be occupied by at least 8 occupants and therefore would not be considered as a small scale HMO (Class C4), rather it would be considered a large scale HMO (Sui Generis) use that would require the submission of a full planning application. Through a full planning application it would also be possible to add a relevant condition which would limit the number of occupants of the proposed HMO to 6 persons, which is not possible through a Certificate of Lawful Development.

Taking into consideration the above, it is considered that the applicant has failed to demonstrate that the proposed change of use constitutes permitted development by virtue of the provisions of Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015.

3.0 Relevant Planning History

35338/APP/2024/862 84 TOLCARNE DRIVE PINNER
Proposed change of use from C3(Residential Family Dwelling) to C4 for 6 persons max (Small HMO) (Application for a Certificate of Lawful Development for a Proposed Development)
Decision Date: 04-06-24 Refused

35338/APP/2024/91 84 TOLCARNE DRIVE PINNER
Conversion of roof space to habitable use to include a side dormer with new rear facing window and alteration to existing rear windows (Application for a Certificate of Lawful Development for a Proposed Development)

Decision Date: 05-03-24 **Approved**

35338/APP/2024/92 84 TOLCARNE DRIVE PINNER

Erection of a single storey extension to rear and side.

Decision Date: 25-03-24 **Approved**

Comment on Planning History

4.0 ALL CLASSES

Is the dwelling a flat or a maisonette?

NO

Is there a planning condition removing permitted development rights?

NO

Is the building listed/ in a Conservation Area?

NO

5.0 Other including Measurements

Bedroom 1 - 14.68 sqm + en-suite (3.3 sq m)

Bedroom 2 - 11.10 sqm + en suite (3.13 sq m)

Bedroom 3 - 10.20 sqm + en suite (3.17 sq m)

Bedroom 4 - 12.66 sqm + en suite (3.07 sq m)

Bedroom 5 - 10.14 sqm + en suite (3.02 sqm)

Bedroom 6- 10.20 sqm + en suite (2.03 sqm)

Hallway: 12.08 sqm

Shared Kitchen / Dining Area: 17.62 sqm

Contact Officer: Becky Smith

Telephone No: 01895 250230