

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 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. ADVERTISEMENT 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 Heads of Terms have already received Committee approval ☐
25. WORKS TO TREES ☐
26. OTHER (please specify) ☐

The delegation powers schedule has been checked. Director of Residents Services can determine this application.

Case Officer

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informatives 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 DATES SHOULD BE USED IN THE PS2 RETURNS TO THE ODPM

Report of the Head of Planning, Sport and Green Spaces

Address 84 COWLEY MILL ROAD UXBRIDGE

Development: Use of part of ground floor and the first floor as 3 residential studio flats (Certificate of Lawful Development for an Existing Development)

LBH Ref Nos: 869/APP/2015/3705

Drawing Nos: Design and Access Statement
1308/01
1308/02
1308/03

Date Plans Received: 06/10/2015 **Date(s) of Amendment(s):**

Date Application Valid: 08/10/2015

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 proposed 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

An application has been submitted seeking confirmation that the conversion of a single flat into three self contained studio flats occurred more than four years ago, and the use of development has been continuous.

It is worth noting that two previous applications for certificate of lawful developments for an existing use have been refused.

In support of the application, the applicant has provided the following documents:

1. Completed Application Form.
2. Letter from Charter Associates Accountants and Auditors - stating they have represented the applicant for taxation purposes since 2009, with flats 84A, 84B and 84C Cowley Mill Road included within the portfolio.
3. Letter from building control department of Hillingdon Council dated the 25th August

2010 which acknowledged the unauthorised subdivision of property into three self contained flats.

4. Copy of Council Tax Bill for 84A (Flat first floor front) Cowley Mill Road for the year 2014/2015.

5. Copy of Council Tax Bill for 84A (Flat first floor rear) Cowley Mill Road for the year 2014/2015.

6. Copy of Council Tax Bill for 84B Cowley Mill Road for the year 2014/2015.

7. Statutory declaration of Mr Maruf dated the 19 December 2014 stating that they have lived at 84a Cowley Mill Road since 16th July 2010.

8. Statutory declaration of Mr Clark and Mr Pali of 84C Cowley Mill Road, dated the 19th of December 2014 stating they have lived at the property since 12th October 2013.

9. Bank statement dated 6 October to 5 November 2010, indicating rent received for 84A, 84B and 84C Cowley Mill Road.

10. Several additional bank statements were provided with dates ranging from July 2011 to November 2012.

Assessment

The documents provided by the applicant have been assessed by the Council's legal officer, with the following comments made:

The applicant has submitted an application for the existing use of 84 Cowley Mill Road as 3 separate residential units, which the applicant states were converted into self contained residential units in 2009 and have been continuously used in this manner since. As you are aware, the burden is on the applicant to show on the balance of probability that 84 Cowley Mill Road has continuously been used as 3 separate residential units for a period of 4 years prior to the date of this application i.e. from 7 October 2011.

I have considered the documentation that appear on the Council's website, Ocella and the bank statements provided by the applicant from October 2010 to January 2014.

The letter dated 25 August 2010 from the Council's Building Control Services merely refers to unauthorised building works being carried out by the applicant. It does show that in August 2010 the applicant has converted the property into 3 self-contained residential units. What this letter does not support is the continuous use.

The applicant has submitted two tenancy agreements: (i) 18 August 2009 which is for a duration of 6 months and (ii) 12 January 2010 for a duration of 12 months. It is difficult to identify what unit the tenancy agreements relate to and in any event are for a limited period of time which is outside the 4 year period relevant to this application. Further, the statutory declaration provided by Mr Maruf is not consistent with his tenancy agreement dated 12 January 2010. The statutory declaration from Mr Clark and Mr Pali are supportive of the application to some extent, however they only became tenants on 12 October 2013 and the statutory declaration was signed on 19 December 2014. This does not cover the full period of 4 years and there is nothing to suggest that the use is continuous.

The letter from Charters Associates Accountants & Auditors dated 18 January 2015 does not carry the same weight as a statutory declaration. It is merely a letter which states that "As part of his property portfolio, we have included Flats 84a, 84b and 84c Cowley Mill Road." This is not sufficient to show that the property has been used continuously as 3 separate residential units for a period of 4 years prior to the date of the application.

The council tax records dated July 2014 show that two flats have been registered for

council tax purposes since September 2011 and the other from May 2013. This is problematic for two reasons: (i) it is difficult to identify the relevant flats as they are recorded differently i.e. "Flat 1st Flr Front", "Flat Gnd Flr" and "Flat 1st Flr Rear", (ii) the records do not cover the full 4 year period, are only up to July 2014 and one flat seems to have only been registered in 2013.

The applicant has provided several bank statements but it is not clear whether the applicant has been receiving rent for all the 3 units on a monthly basis from October 2011.

Whilst the applicant has attempted to provide as much evidence as possible, I am not satisfied that the information provided is sufficiently precise and unambiguous that on the balance of probability, the property have been used continuously for a period of 4 years prior to the date of the application as 3 separate residential units. I would therefore recommend that the application is not granted.

I understand that the applicant made a similar application in March 2015 to which my colleague provided legal comments on 25 March 2015. Within this several suggestions as to the nature of the evidence that one would expect to see in this type of application were made, however I note that none of these have been provided by the applicant with this latest application.

Conclusion.

In this application, the onus is wholly placed on the applicant to demonstrate that on the balance of probabilities, beyond reasonable doubt, that 84 Cowley Mill Road has continuously been used as 3 separate residential units for a period of 4 years prior to the date of this application i.e. from 7 October 2011.

As described within the above assessment, the supporting documents provided fail to demonstrate that the use of 84 Cowley Mill Road has been used as three separate flats has been continuous for a period of four years prior to the submission of this application. The application is therefore recommended for refusal, and a certificate of lawful development cannot be granted.

3.0 Relevant Planning History

869/APP/2014/3786 84 Cowley Mill Road Uxbridge

Residential use as 3no. studio units (Application for a Certificate of Lawful Development for an Existing Development)

Decision Date: 24-12-2014 Refused

869/APP/2015/225 84 Cowley Mill Road Uxbridge

Use of part of ground floor and the first floor as 3 residential studio flats (Certificate of Lawful Development for an Existing Development)

Decision Date: 25-03-2015 Refused

Contact Officer: Karen Mckernan

Telephone No: 01895 250230