

Planning Statement

Planning Application

Use of room for short term lets and other ancillary uses

2 Leaside, St Marys Lane, Hertingfordbury

DLA Ref: 23/161

April 2023

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1.0 INTRODUCTION

- 1.1 This report relates to an application for a certificate of lawful existing development for the continuing use of a room for short term lets and other ancillary uses at 2 Leaside, St Marys Lane, Hertingfordbury.
- 1.2 The report will demonstrate that the use of part of an existing dwelling house for the purposes of short term lets does not result in a material change of use of all or part of the property. The building therefore remains in a Class C3 use and a certificate of lawful use can safely be issued.

2.0 **SITE & CONTEXT ANALYSIS**

2.1 **Location**

The site is located on the western side of St Marys Lane and to the south of the village of Hertingfordbury.

2.2 **Application Site**

Leaside was originally a single property, but the building came into use as 2 separate dwellings in 2015. This application relates to No 2 Leaside and the part of the dwelling that was formally its lounge. It has recently been converted into guest accommodation. It contains an ensuite and a small kitchen area. It has a toaster and a kettle but no coking facilities.

3.0 RELEVANT PLANNING HISTORY

3.1.0 Application Site

3.1.1 LA Ref: 3/20/1458/CLXU

This application sought a Certificate of Lawful Use of Leaside as 2 residential dwellings. A Certificate was issued on 27 April 2021. It stated:

“On the balance of probabilities, it has been clearly demonstrated that the dwelling known as Leaside has been in continuous use as two independent dwellinghouses for four years prior to 30th July 2020.”

3.1.2 The two properties are now known as 1 Leaside and 2 Leaside. This current application relates to 2 Leaside.

4.0 DESCRIPTION OF DEVELOPMENT

4.1 Use

The application seeks to confirm that the use of the former lounge for short term lets, and other ancillary purposes does not result in a material change of use away from the existing Class C3 use as a dwellinghouse. As well as accommodating paying guests, the room is also used by friends and family.

4.2 Layout

The application relates specifically to the former Lounge of No 2 Leaside. This has a floor area of 30m² and includes a sleeping / living area, an ensuite and small kitchen area. The kitchen has a sink and draining board, a kettle and a toaster but not full cooking facilities.

4.3 Appearance & Scale

The proposal would not result in any external alterations to the appearance of the dwelling.

5.0 ASSESSMENT

5.1 A Certificate is sought on the basis that the use of part of the dwelling for short term lets and other ancillary uses does not constitute a material change of use. In *Moore v SOS for Communities and Local Government [2012]*, Sullivan LJ advised that determining whether or not a material change of use has occurred is a question of fact and degree. He was considering a case where the whole of a dwellinghouse was being used for commercial letting as holiday accommodation. At paragraph 27 of his judgement, he reasoned that:

“Neither of the two extreme propositions – that using a dwellinghouse for commercial holiday lettings will always amount to material change of use, or that use of a dwellinghouse from commercial holiday lettings can never amount to a change of use – is correct.”

5.2 Sullivan LJ upheld the High Court’s decision that using the whole property for commercial holiday lets did amount to a material change of use. But at paragraph 36 he again emphasised that this would not always be the case and noted that the judge had applied the correct test:

“He did not fall into the error of assuming that any use for holiday letting amounted to a material change of use. He carefully examined the characteristics of the lettings in the present case and concluded that, as a matter of fact and degree, there was a material change of use from the permitted use as a dwellinghouse.”

5.3 In *Blackpool BC v SOS for the Environment [1980]*, Ackner LJ supported an Inspector’s decision that a use of a property by the owner, his family, members of his office and staff and by family groups that paid rent did not amount to a material change of use. At paragraph 111 he stated:

“It is common ground, as I understand it, that the question of for determination in the context this appeal is whether the character of the use of this dwelling-house as a private residence has been changed so substantially as to amount to a material change of use. It is a question of fact and degree.....I think she (the Inspector) was wholly entitled to reach the conclusion that the character of the dwelling-house was not materially changed by the succession of occupiers over the period that I have mentioned in the categories that I have described.”

5.4 From the logical reading of *Moore* and *Blackpool*, it can be seen that using the whole of a property all of the time for short term lets would constitute a material change of use. However, it also follows using part of a property for this purpose does not automatically mean that a material change of use has occurred.

5.5 Turning to the application property, when the Certificate was issued in April 2021 this consisted of a two-bedroom dwelling with lounge, dining room, kitchen and utility room. The plans also showed a W/C and shower room adjacent to the lounge. There is also a sink and draining board in this room. The applicant has recently begun renting the former lounge for the purposes of short term lets. To facilitate this, the area previously shown as a dining room has become his main living space.

5.6 Limiting the use of the room to short term lets provides flexibility and means that the applicant can also utilise the space to accommodate family and friends when required.

5.7 This application seeks confirmation that use of part of the house for short term lets and other ancillary uses has not resulted in a material change of use. Applying *Moore* and *Blackpool*, the main question is whether the use would result in such a substantial change in character so as to amount to a material change of use. It is considered that this would not be the case for the following reasons:

- The former lounge accounts for approximately 30% of the entire floor area of No 2 Leaside. A significant majority of the floorspace would therefore remain in the private use of the applicant.
- No 2 Leaside is a two-bedroom property and so had an original potential occupancy of 4 people. The former lounge could be used by a further 2 people, bringing the total occupancy to 6. This number of people does not exceed the definition of a Class C3 dwellinghouse. The amount of comings and goings and vehicular activity would not be unusual or obviously different to that which could occur with a typical dwelling.
- The size of the area used for short term lets would not support large gatherings or parties. There is no reason therefore why it would result in an unusual level of noise and disturbance or any other undue impact on neighbouring properties.
- There are no cooking facilities (other than a toaster) within the room and so it is not intended to provide self-contained accommodation. The applicant offers breakfasts and evening meals to his guests and so there is an element of interaction between the two parts of the dwelling. A laundry service is also offered to guests staying for a week or more. Sheets and towels etc. are provided and laundered from the main house.
- Guest do not pay for any other services. Parking is free and there are no separate charges for electricity or water.

5.8 For all these reasons it is considered that a material change of use has not occurred and the whole of No 2 Leaside remains a single dwelling. Therefore, a Certificate of Lawful Use can safely be issued.

6.0 CONCLUSION

6.1 This application seeks confirmation that the use of part of a dwelling house for the provision of short term lets and other ancillary purposes does not result in a material change of use. It is considered that a certificate can safely be issued in the following circumstances:

- The room in question accounts for less than a third of the floor area of the whole dwelling.
- The maximum occupancy would not exceed the definition of Class C3 dwelling.
- The existing / proposed use would not result in an unusual level of noise and disturbance.
- The room would retain a functional relationship with the remainder of the dwelling.