HUNTINGDONSHIRE DISTRICT COUNCIL

25/01078/CLED

OFFICER REPORT

Case No: **25/01078/CLED** **Certificate of existing lawful use**

Proposal: **Certificate of existing lawful use as residential dwelling and for conversion of space above and at the back of the garage/cartlodge into a loft.**

Location: **53 High Street Earith Huntingdon**

Applicant: **Mrs Andrea Chance House**

Grid Ref: **538532 274821**

DESCRIPTION OF SITE AND APPLICATION

The application is for a Certificate of Existing Use to confirm whether 53 High Street, Earith Huntingdon, PE28 3PP has been used as a residential dwelling (Use Class C3) for in excess of 10 years. The application also seeks to confirm whether the converted loft space of 53 High Street's garage is lawful residential ancillary space associated with 53 High Street. The grounds the certificate is being sought is the use began more than 10 years before the date of this application (validated 18/07/2025). The application pertains building known as 53 High Street, Earith Huntingdon, PE28 3PP and its residential outbuilding/garage to the rear.

The application seeks to establish the 'lawful use as residential dwelling and for conversion of space above and at the back of the garage/cartlodge into a loft.' The Applicant s claim the submitted statement and accompanying evidence establishes that residential use has occurred on site for a period exceeding 10 years and should be recognised as the lawful use of the site in accordance with Section 191 of the Town and Country Planning Act 1990.

The application is supported with the following information and consists of:

- Application form
- Title Register
- Council Tax Details
- Gas Bills
- Supporting Statement
- Existing Plans SC/25/462-201
- Pre-existing elevations SC/25/462-102
- Pre-existing Plans SC/25/462-101
- Existing Elevations SC/25/462-202

Information available to the Local Planning Authority (LPA):

- Planning History of the site and any associated communication
- Aerial and Street level Imagery
- Council Tax Information
- Building Control Applications
- Companies House

LEGISLATION

Schedule 2, Part A Commercial, Business and Service of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

Section 191 of the Town and Country Planning Act 1990: Certificate of lawfulness of existing use or development

Section 171B of the Town and Country Planning Act 1990: Enforcement Action Time limits

NATIONAL GUIDANCE AND PLANNING POLICIES
The planning merits are not for consideration in this case as this application is determined solely on the basis of whether the submitted evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

PLANNING HISTORY
0701686FUL: Change of use and rear extension to bakers shop and dwelling to form four dwellings - Refused

Ref. 18/02617/TRCA: Tree works - Consent

CONSULTATIONS
Parish Council- Earith Parish Council objects to the application for a Certificate of Existing Lawful Use as a Dwelling at 53 High Street, Earith, stating that the property has historically operated as a bakery rather than a residential dwelling, with bakery ovens believed to still be present and a noticeable shop front remaining; they argue that the proposed change would not be in keeping with the street scene and that there is insufficient evidence to confirm residential use.

It should be noted that this application is not seeking to change the use of the building but to confirm whether through the passage of time (10 years) the use of the building is legally residential.

REPRESENTATIONS
This application is determined solely on the basis of whether the submitted evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

SUMMARY OF ISSUES
Relevant parts of the Town and Country Planning Act 1990 are as follows:

The Local Planning Authority (LPA) can grant a certificate confirming whether an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990. If the LPA is satisfied that the appropriate legal tests have been met, it will grant a lawful development certificate. Where an application has been made under section 191, the statement in a lawful development certificate of what is lawful relates only to the state of affairs on the land at the date of the certificate application.

Planning Practice Guidance on Lawful Development Certificates advises that applications must be accompanied by sufficient factual information and evidence for a Local Planning Authority to decide the application and advises that without sufficient or precise information, a Local Planning Authority may be justified in refusing granting a certificate.

The "lawfulness" of proposed development for lawful development certificates is set out in the statutory framework of Section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

An LPA can issue a certificate on the balance of probability if the Applicant 's evidence alone is sufficient, precise, and unambiguous to justify the grant and has no evidence itself, nor any from others to contradict or otherwise make the Applicant 's version of events less than probable.

Section 171B of the Town and Country Planning Act 1990 sets out a series of statutory time frames for which enforcement action cannot be taken against breaches of planning control. In this particular case, the grounds the certificate is being sought is the use began more than 10 years before the date of this application. This is otherwise known as the 'ten-year test' as set out in Paragraph 1(a) of Section 171B of the Town and Country Planning Act 1990.

Paragraph 1(a) of Section 171B of the Town and Country Planning Act 1990 states
"Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of—
in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed"

The issue to consider:
The main issue is whether, on the balance of probabilities, the land and property known as 53 High Street, Earith Huntingdon, PE28 3PP has been used as a residential dwelling (Use Class C3) for a continuous period for more than ten years before the date of this application and the outbuilding to the rear of No. 53 High Street has been used as ancillary residential accommodation associated with the main dwelling for over 10 years.

This assessment will consider the following criteria:
- Submitted Evidence of Existing Use
- Information available to the Local Planning Authority
- Legal tests

Submitted Evidence of Existing Use
*Title Register
A title register letter dated 04.09.2014 was submitted as evidence. The register details: the Applicant names, the address of 53 High Street, Earith, Huntingdon, PE28 3PP and the price stated to pay for the property.

*Council Tax Details
A single council tax bill dated 20.11.2014 accompanies the application. The letter is addressed to 53 High Street, Earith.

The charge period dated on the letter is 08/08/2014-31/03/2015.

While the submitted evidence confirms that the property has been used residentially, it does not demonstrate a continuous residential use due to insufficient documentation. Specifically, Council Tax bills covering each annual period up to the date of this application (18 July 2025) have not been provided.

*Gas Bills
A single gas bill dated 05.09.2014 accompanies the application. The address on the letter is only partially visible including the words 'Huntingdon' and post code 'PE28 3PP'.

The charge period dated on the letter is 08/08/2014-04/09/2014.

The above evidence does not demonstrate a continuous residential use due to insufficient documentation. Specifically, gas bills covering each annual period up to the date of this application (18 July 2025) have not been provided.

Furthermore, as the address on the letter is not provided in full, Officers are unable to confirm whether it is specifically addressed to No. 53 High Street, Earith.

*Supporting Statement

The accompanying statement notes the Applicant has owned the property since the 04.09.2014. This claim aligns with the submitted title register.

The statement continues to claim the property has been used as a single residential dwelling since the 04.09.2014 and it is understood that the use of part of the property as a bakery ceased many years ago, with evidence from Google Street View indicating that it was no longer operating as a bakery as early as 2008.

Google Street View images dated October 2008, April 2010, September 2014, September 2021 and May 2023 are attached in the submitted supporting Statement. The street level imagery shows the building subject to this application with a shop frontage. Notwithstanding this, none of the photos note a business name on the frontage. Photos dated September 2014, September 2021 and May 2023 show domestic style curtains in the front window of the building.

The accompanying statement also claims the accompanying Council Tax bill (dated 20.11.2014) and the Applicant 's first gas bill (dated 8.09.2014) at the property evidences the use of the building as a residential dwelling house. As detailed above, the gas and Council Tax bill evidence does not cover each annual billing period up to the date of this application (18 July 2025) and for a period of 10 consecutive years. Based on this insufficient information the application does not demonstrate a continuous residential use of the building.

In regard to works relating to the loft conversion of the cartlodge, the accompanying statement claims works had been completed in 2015. The Applicant s claim the conversion to ancillary habitable accommodation does not amount to development as defined under Section 55(1) and 55(2) of the Town and Country Planning Act 1990 (as amended) for the following reasoning:

- All of the work was carried out internally, except for the installation of French doors at ground level on the rear elevation.
- Despite the outbuilding having a shower room, there is a close physical and functional relationship between outbuilding and host dwelling as the space is used by family members in association with residential use of dwelling.
- The space is accessed exclusively via dwelling and there is no division of garden.
- The outbuilding does not have separate curtilage and there is no separate metering of utilities.
- Determining whether external alterations to a building constitute development requires assessing the impact on the overall external appearance of the building, rather than evaluating changes in isolation. Key considerations include the visibility of the changes from public viewpoints, the nature of the building itself, and the type of alterations undertaken.
- The external works were limited to the provision french doors ground floor rear elevation for which it is not possible view these doors outside curtilage property.
- The addition of windows and doors to a residential dwelling is typically considered permitted development under Part 1, Class A of the General Permitted Development Order. These rights remain in place within the Earith Conservation Area.

The matter for consideration in the determination of this application is whether the converted loft space of 53 High Street's garage is lawful residential ancillary space associated with 53 High Street. Despite the Applicant s claim detailed above, the application is not seeking to confirm whether the works relating to the loft conversion of the cartlodge amount to development as defined under Section 55(1) and 55(2) of the Town and Country Planning Act 1990 (as amended).

The application is not accompanied by date stamped photos of the French doors on the ground floor rear elevation. Nor has the application demonstrated a continuous use of the cartlodge as ancillary habitable accommodation, as the application is not accompanied with date stamped photos from internally and/or externally of the cartlodge with a residential use for a continuous period of over 10 years.

*Pre-existing elevations SC/25/462-102

This plan provides an elevation of the rear of No.53 prior to the alleged conversion. The plans show the northern and eastern elevations of the building. Two ground floor windows are located on the northern elevation of the building prior to conversion.

*Existing Elevations SC/25/462-202
This plan provides an elevation of the rear of No.53 post conversion of the cartlodge loft. The plans show the northern and eastern elevations of the building. One ground floor set of French doors are located on the northern elevation of the building following the alleged conversion.

*Pre-existing Plans SC/25/462-101
This plan provides ground and first-floor plans of the property as pre-existing. The ground floor comprised a living room, kitchen, sitting room, WC, dining room, garage and store.

The first floor comprised of four bedrooms, one with ensuite, and a family bathroom.

The first floor of the building also hosted a store and WC which is accessed by an external staircase.

*Existing Plans SC/25/462-201
The submitted plans provide detailed ground and first-floor layouts of the property as existing. The building subject to this application is a semi-detached dwelling of traditional rectangular form, fronting onto High Street. A narrow rear extension projects from the main building footprint.

The ground floor comprises a living room, kitchen, sitting room, WC, dining room, garage, and garden room. UPVC glazed French doors are indicated at the rear of the extension, serving the garden room.

The first floor of the main dwelling includes four bedrooms, one with an en-suite and a family bathroom.

A loft conversion in the cartlodge is also indicated, accessed via an external staircase located in the courtyard. The loft space appears to contain a bathroom and a kitchen.

The submitted plans show that the cartlodge is fully self-contained, comprising habitable spaces, garden room, kitchen, and bathroom, with no internal connection to the main house. It has independent front and rear access via patio doors, and could therefore function as a separate dwelling. However, the accompanying planning statement asserts that the garden is not subdivided, and the outbuilding does not benefit from a separate curtilage therefore suggesting there is a physical relationship between the two buildings.

The statement further claims that the cartlodge maintains a functional relationship with No.53, being used by family members. However, no substantive evidence has been provided to demonstrate this relationship such as shared services, communal facilities, or caregiving arrangements.

Crucially, the application is not supported by date-stamped photographs of the French doors on the rear elevation, nor does it include photographic evidence (internal or external) demonstrating continuous use of the cartlodge as ancillary accommodation for a period exceeding 10 years. The absence of such documentation undermines the Applicant 's assertion that the outbuilding has been used continuously as ancillary residential accommodation to No.53.

In light of the above, Officers are unable to confirm the accuracy of the Applicant 's statement. The evidence submitted does not sufficiently demonstrate either a physical or functional relationship between the cartlodge and the host dwelling. Furthermore, no photographic evidence has been provided to substantiate the claimed residential use of the outbuilding over a 10-year period.

Information available to the Local Planning Authority
*Planning History of the site and any associated communication

Planning history on the application site details a refused planning application (ref 0701686FUL) for the "Change of use and rear extension to bakers shop and dwelling to form four dwellings"

Application ref 0701686FUL was refused for the following reasons:

- Reason 1: The proposal would be contrary to the provisions of policy T18 of the Huntingdonshire Local Plan 1995 in that the access between the site and the public highway is below the required standards by reason of inadequate width and substandard visibility splays. The use of the access by slowing, stopping and turning traffic will interfere with, and will be prejudicial to, the safety and free flow of traffic using the public highway.
- Reason 2: The proposal would be contrary to the provisions of policy H31 of the Huntingdonshire Local Plan 1995, and policy B4 of the Huntingdonshire Interim Planning Policy Statement 2007, in that development would result in a loss of amenity to adjoining residents by reason of increased overlooking.

No other applications have been received by the LPA in relation to the change of use of the bakers shop to a residential dwelling house (Class C3 Use) since the determination of application ref 0701686FUL.

*Aerial and Street level Imagery
In regard to street level imagery the earliest data available to the LPA are images taken in October 2008. Other street level imagery was taken in April 2010, May 2011, September 2011, September 2014, August 2016, June 2017, May 2021, September 2021, July 2022 and May 2023.

The shop frontage on the building does not appear to change in imagery dated above. No business advertisement is located on the shop frontage on any of the dates listed above.

It should be noted that the imagery listed above does not show the outbuildings to the rear of 53 High Street, Earith, Huntingdon, PE28 3PP.

It is noted that in images dated October 2008, April 2010, May 2011, September 2011 and June 2017 a domestic dining room table and chairs are located in the bakery window.

Whilst the above demonstrates at a domestic use of the building on the following dates/times: October 2008, April 2010, May 2011, September 2011 and June 2017, there are time/date gaps within the evidence to suggest a continuous residential use.

*Building Control Applications.
Application ref 1401200DEXBN for a Loft Conversion at 53 High Street, Earith, Huntingdon, PE28 3PP was accepted the 24.11.2014.

Legal tests
The Local Planning Authority (LPA) can grant a certificate confirming whether an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990. If the LPA is satisfied that the appropriate legal tests have been met, it will grant a lawful development certificate. Where an application has been made under section 191, the statement in a lawful development certificate of what is lawful relates only to the state of affairs on the land at the date of the certificate application.

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The "on the balance of probabilities" standard is a test used in civil cases to determine whether a fact is more likely than not to have occurred. This means Officers would be satisfied that the evidence submitted suggests the Applicant s claim was more than likely to have occurred, than not. In this instance, the Applicant claims the building 53 High Street, Earith Huntingdon, PE28 3PP has been used as a residential dwelling (Use Class C3) for in excess of 10 years and converted loft space of 53 High Street's garage is lawful residential ancillary space associated with 53 High Street and has submitted evidence to support such claims.

The application is accompanied with Council Tax and gas bills, as detailed above these do not demonstrate a continuous residential use for over 10 years, given they do not cover each annual period up to the date of this application (18 July 2025). In addition, the address on the submitted gas bill is not provided in full and therefore, Officers are unable to confirm whether it is specifically addressed to the Applicant s at No. 53 High Street, Earith.

The evidence submitted includes pre-existing and current floor plans and elevations. These indicate that the cartlodge is a fully self-contained unit with habitable rooms, a kitchen, and bathroom, and no internal link to the main dwelling. It has independent front and rear access and could function as a separate residential unit. However, no substantive evidence (e.g photographic evidence of continuous use) has been provided to demonstrate a physical or functional relationship with the host property. As such, officers are unable to confirm the Applicant 's claim that the outbuilding has been used as ancillary residential accommodation to the main dwelling.

The application includes street-level imagery, which officers have also reviewed independently. While some images suggest domestic use of the former bakery at certain points in time, gaps in the time-stamped evidence prevent confirmation of continuous residential use.

Conclusion:
Based on the evidence submitted and available to the Local Planning Authority, and applying the test of the balance of probability, the Applicant has not provided sufficiently precise or robust evidence to demonstrate that 53 High Street, Earith, Huntingdon, PE28 3PP has been continuously used as a residential dwelling (Use Class C3) for a period exceeding 10 years. Furthermore, the Applicant has failed to demonstrate that the outbuilding to the rear has been continuously used as ancillary accommodation functionally and physically associated with the main dwelling, 53 High Street, Earith, Huntingdon, PE28 3PP. For that reason, it is not recommended that a certificate is granted for existing lawful use.

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388388 and we will try to accommodate your needs.

CONTACT OFFICER:
Enquiries about this report to **Charlotte Dew**