HUNTINGDONSHIRE DISTRICT COUNCIL

26/00211/CLED

OFFICER REPORT

Case No: **26/00211/CLED** **Certificate of existing lawful use**

Proposal: **Lawful development certificate to confirm use of a single dwellinghouse with ancillary accommodation (Class C3) which has become lawful over time**

Location: **53 High Street Earith Huntingdon**

Applicant: **Mike Balding _ Emile House**

Grid Ref: **538532 274821**

DESCRIPTION OF SITE AND APPLICATION

This application seeks a Lawful Existing Development Certificate under section 191 of the Town and Country Planning Act 1990 (as amended) for the use of No. 53 High Street, Earith as a single dwellinghouse with ancillary accommodation within Use Class C3 for more than 4 years.

The application pertains to the building known as 53 High Street, Earith Huntingdon, PE28 3PP and the cartlodge to the rear which has been converted to ancillary residential space.

It is worth noting that a Certificate was recently refused on the grounds of a lack of information (Ref: 25/01078/CLED).

The supporting information submitted with this application consists of:

- No. 53 High Street Sales Particulars;
- No. 53 High Street Title Deeds;
- No. 53 mortgage account summary statement;
- Council tax bills, dated 20 November 2014, 15 March 2022, 18 September 2024, 15 March 2025;
- Letter from Huntingdonshire District Council's Council Tax team, dated 6 October 2025;
- Gas and electricity bills, dated 1 December 2022, 30 October 2023, 20 January 2024, 20 January 2025, 20 November 2025;
- Water bills, dated 14 February 2022, 3 March 2023, 28 February 2024, 21 February 2025;
- Invoices issued from Silks Farm Nursery and Pre-School;
- Letter and covering e-mail from Silks Farm Nursery and Pre-school;
- Letter from Earith Primary School;
- Google Streetview images;
- Photographs of the property;
- Building Regulations Compliance Certificate (Ref: 13720301);
- Electrical Condition Report, dated 10 September 2024;
- Drawing Ref: SC/25/462-201 - Existing Plans of No. 53 High Street;
- Statutory Declarations (Andrea House, Emilie House and Carl Fillary).

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.
Section 171B of the Planning and Compensation Act 1991.

The Levelling Up and Regeneration Act 2023
Section 10 of the Planning and Compensation Act 1991

NATIONAL GUIDANCE AND PLANNING POLICIES

The planning merits are not for consideration in this case as this application 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.

RELEVANT PLANNING HISTORY

25/01078/CLED - Certificate of existing lawful use as a residential dwelling and for conversion of space above and at the back of the garage/cartlodge into a loft - Refused.

18/02617/TRCA - Tree works - Approved.

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

CONSULTATIONS

Earith Parish Council - No objections.

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

Section 191 of the Town and Country Planning 1990 Act provides a procedure whereby applications can be made for a Certificate of Lawfulness to ascertain whether any existing use of buildings is lawful.

The Planning Practice Guide section on Lawful Development Certificates advises that applications must be accompanied by sufficient factual information/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 a certificate. The onus of proof in a Lawful Development Certificate application is firmly on the applicant. However, in appeals to the Secretary of State which raise legal issues, the Courts have held that the relevant test of the evidence on such matters is "the balance of probability".

If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability". The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application.

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. The Levelling Up and Regeneration Act 2023 (section 115) amended the Town and Country Planning Act (Section 171B) to update the time limits within which local planning authorities can take

planning enforcement action against breaches of planning control. When this change was enacted, transitional measures were also put in place based on when the breach took place. If the breach took place prior to 25 April 2024:-

Change of use of a building, or part of a building, to use as a single dwelling house - Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken.

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 four 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 4 years.

Assessment

The submitted supporting statement claims that the property was sold to Mr. M Balding and Miss. E House on 8 August 2014 having already been converted to a private residential dwelling (Use Class C3), who went on to occupy the property until July 2024. From July 2024, Miss. E House's mother has lived in the property.

Accompanying the application is the online listing of the property when it was sold in 2014, which describes the property as a "4 bed semi-detached house for sale", noting it as an "extended and re-furbished former bakery". The particulars describe a domestic property room by room and refer to the former Granary and Barn being restored and containing a shower room. The submitted Title Deeds and Mortgage Account Summary corroborates the purchase of the property by Mr. Balding and Miss. House with the property fee paid and the date the mortgage started on 8 August 2014.

With regard to utility bills, Gas and Electric bills from 5 September 2015 address to 'Mr M Balding and Mrs E House' (covering the period of usage from 6 September 2014-5 September 2016) are provided together with more recent combined gas and electricity bills dated 20 September 2022, 30 October 2023, 20 January 2024, 20 January 2025 and 20 November 2025 which are addressed to Mrs Emilie House. These show a VAT rate of 5% associated with a residential property. Water bills from 12 February 2022, 3 March 2023, 28 February 2024 and 21 February 2025 - all addressed to Ms Emilie House are also provided.

Evidence has also been submitted in the form of written confirmation from a local school and nursery that two children were enrolled between the 2019 - 2024 with their contact address as No. 53 High Street, Earith.

The application has also been accompanied by a letter from the Council Tax department at Huntingdonshire District Council dated 6 October 2025 which states that the property was occupied by Miss. E House and Mr. M Balding as a residential property from 8 August 2014 to 31 August 2024 and according to records the property is still in residential use with the same owners but a different occupant. Furthermore, the application has been accompanied by a number of Council Tax bills dated 2014, 2022, 2024 and 2025.

Three Statutory Declarations have also been received from Emilie House (owner of the property since August 2014), Andrea House (occupant of the property since July 2024) and Carl Fillary (Occupant of neighbouring property No. 51 since August 2017). The Statutory Declarations describe how the entire property (comprising the main house and ancillary accommodation to the rear) has been occupied by the applicants (Emilie House and Mike Balding) from 2014-2024, with the mother of one of the applicants (Andrea House) resident at the property from 2019 to date.

They support the evidence provided that there has been residential occupancy of the main house and ancillary accommodation (within the cartlodge) with the neighbour confirming that since moving into No. 51 in 2017, the property of No. 53, including the converted cartlodge, has been used as a single residential property.

Google Street View images are attached in the submitted supporting Statement. The street level imagery shows the building subject to this application without a shop frontage or any commercial signage. The photos dated October 2008, September 2014, May 2021, September 2021 and May 2023 also show domestic style curtains in the front window of the building. However, the historic streetscene imagery does not effectively demonstrate the use of the property and 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.

A number of photographs have also been provided of the property including family gatherings etc within both the main house and cartlodge and outside the property, however, these images do not effectively contribute to the evidence as the majority are not date-stamped and do not provide locational context.

Drawing ref: SC/25/462-201 (dated June 2025) has been submitted showing the current layout of the property. When compared to the floorplans within the sales particulars in 2014, this demonstrates that there have been no material changes to the main house over the period in question.

A review of Building Control Applications also shows that Application ref 1401200DEXBN for a Loft Conversion at 53 High Street, Earith, Huntingdon, PE28 3PP was accepted on 24.11.2014. A Building Regulations Compliance Certificate ref 13720301 issued on 12/01/2015 also confirms the installation of a gas-fired boiler.

On the balance of probability, based on the submitted documentation alongside the supporting statements, the Local Planning Authority are satisfied that the use of 53 High Street, Earith as a residential property was substantially completed prior to 25 April 2024 and that No. 53 High Street, including the ancillary accommodation within the cartlodge, has been used as a single residential property for a continued period of four years.

It is worth noting that the previous application (25/01078/CLED) which was refused, sought to provide evidence over a ten-year period. However, as the change of use to a single residential dwelling with ancillary accommodation had taken place ahead of 25th April 2024 (when the period of use required to establish lawful use as a single dwellinghouse changed from 4 years to 10 years) the evidence in support of this application has focused on demonstrating the use has been established 'on the balance of probabilities' over a continuous period of 4 years ahead of the submission of the application.

Conclusion:

The Local Planning Authority has no evidence to make the applicant's version of events less than probable; the information provided and available to the LPA is sufficiently precise and unambiguous to justify the granting of a certificate on the balance of probability.
It is therefore recommended that the Certificate is approved.

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CONTACT OFFICER:
Enquiries about this report to **Jennifer Wallis**