

DELEGATED PLANNING APPLICATION REPORT

Ward: Battle

App Ref: 230475/CLE

Address: 15 Hilcot Road, Reading, RG30 2SX

Proposals: 2x - 1 bed dwellings used for more than 4 years

Case Officer: Marcie Rejwerska

Date received (valid from): 12 April 2023 Target Decision date: 20 June 2023 (ext.)

1. SITE DESCRIPTION

The application site comprises a two-storey mid-terrace dwelling on the west side of Hilcot Road. The immediate surrounding area is residential with similarly designed Victorian terraced rows. The application site is not listed nor in a conservation area. The property is not within an Article 4 Direction area.

2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks to demonstrate the existing use of 15 Hilcot Road, Reading RG30 2SX as 2x 1 bed dwellings.

3. RELEVANT PLANNING HISTORY

101560 - Certificate of Lawfulness for existing use of property as 2 flats - Application refused on 01/10/2010

4. LEGAL AND PLANNING POLICY CONTEXT

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and is so, be granted a certificate to that effect.

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate. However, the certificate will not protect from enforcement action by the planning authority if the specified use or development is then changed 'materially' without a planning application for it.

The certificate is not planning permission. The planning merits of use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

The NPPG states that ‘The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use (section 191 of the Town and Country Planning Act 1990), if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability’.

5. CONSULTATIONS

Reading Borough Council, Electoral Registration - Response received on 27/04/2023

- Number of electors at the property:

Year	No. of electors
2023	0
2022	0
2021	0
2020	2
2019	2
2018	2
2017	2
2016	0
2015	1
2014	2
2013	2

Reading Borough Council, Environmental Health - Response received on 02/05/2023

- No comment to make on this application.

Reading Borough Council, Private Sector Housing - response received on 16/04/2023

- I have checked our records and we do not hold any history in the Private Sector Housing Team for these 2 properties.

Reading Borough Council, Council Tax - Response received on 03/05/2023

- I can confirm we do have this property split into two separate flats for CT purposes, gnd flr & 1st flr flats have both been separately banded since 22.11.2022.

Reading Borough Council, Enforcement - Response received on 14/04/2023

- This property was investigated in 2011 (11/00272) and again in 2013 (13/00269) following complaints that the property had been converted to two self-contained flats. No breach was established in either cases and the latter was closed in 2014. We have not investigated the property since.

Reading Borough Council, Legal - Response received on 07/06/2023

- Agree the evidence is sufficient to establish use of the two flats as separate dwellings.

6. SUBMITTED EVIDENCE

The applicant provided the following evidence to support the use of 15 Hilcot Road, Reading RG30 2SX as 2x 1 bed flats:

- 9107-100 Location plan, dated 12 April 2023, received 12 April 2023
- 7600-04-01 Survey as existing, dated August 2004, received 12 April 2023

- Photos, ground floor, received 12 April 2023
- Photos, first floor, received 12 April 2023
- Council Tax bill dated 13 December 2022, received 12 April 2023
- Tenancy Agreement (ground floor flat), dated 30/07/2019, received 12 April 2023
- Landlord Closing Inventory (ground floor flat), dated 07/01/2020, received 12 April 2023
- Notice to Vacate (ground floor flat), dated 13/12/2019, received 12 April 2023
- DPS Certificate (ground floor flat), dated 31/07/2019, received 12 April 2023
- Tenancy Agreement (first floor flat), dated 10/01/2022, received 12 April 2023
- Notice to Vacate (first floor flat), dated 21/09/2022, received 12 April 2023
- Tenant Booking Out Form, undated, received 12 April 2023
- Tenancy Agreement (first floor flat), dated 29/11/2022, received 12 April 2023
- Statutory Declaration (first floor flat), dated 7/12/2022, received 12 April 2023
- Tenancy Agreement (ground floor flat), dated 13/01/2023, received 12 April 2023
- Tenancy Agreement (ground floor flat), dated 16/01/2020, received 12 April 2023
- Notice to Vacate (ground floor flat), dated 23/09/2022, received 12 April 2023
- Landlord Closing Inventory (ground floor flat), dated 22/11/2022, received 12 April 2023
- Tenancy Agreement (ground floor flat), dated 16/04/2015, received 12 April 2023
- Landlord Closing Inventory (ground floor flat), dated 27/07/2019, received 12 April 2023
- Notice to Vacate (ground floor flat), dated 18/07/2019, received 12 April 2023
- Tenancy Agreement (first floor flat), dated 16/04/2015, received 12 April 2023
- Landlord Closing Inventory (first floor flat), dated 21/12/2019, received 12 April 2023
- Notice to Vacate (first floor flat), dated 22/10/2019, received 12 April 2023
- Tenancy Agreement (first floor flat), dated 24/12/2019, received 12 April 2023
- Landlord Closing Inventory (first floor flat), dated 04/04/2022, received 12 April 2023
- Notice to Vacate (first floor flat), dated 04/11/2021, received 12 April 2023

Summary of evidence

Tenancy Start Date	Tenancy End Date	Tenants	Flat	Evidence
13/01/2023	Current	1	Ground Floor	Tenancy agreement
16/01/2020	22/11/2022	2	Ground floor	Tenancy agreement, closing inventory, notice to vacate
01/08/2019	07/01/2020	1	Ground floor	Tenancy agreement, closing inventory, notice to vacate
16/04/2015	27/07/2019	2	Ground floor	Tenancy agreement, closing inventory, notice to vacate

10/12/2022	Current	1	First floor	Tenancy agreement and statutory declaration
10/01/2022	09/12/2022	2	First floor	Tenancy agreement, notice to vacate, booking out form
24/12/2019	04/01/2022	2	First floor	Tenancy agreement, closing inventory, notice to vacate
16/04/2015	21/12/2019	2	First floor	Tenancy agreement, closing inventory, notice to vacate

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of 15 Hilcot Road as a 2x 1 bed flats began more than 4 years before the date of this application of 12 April 2023. The application form states that the use began on 1 April 2015.

With regards to internal consultee response; the Council Tax team have confirmed that the property is banded as 2 separate flats (ground floor and first floor) since 22 November 2022. The fact that the property was not banded for Council Tax purposes as two dwellings until the end of 2022 is not conclusive as to the actual use of the property. A Council Tax bill from December 2022 has been submitted as evidence by the applicant.

The Enforcement team have confirmed that 15 Hilcot Road was investigated in 2011 and again in 2013 following complaints that the property had been converted into 2 self-contained flats. No breach established in each case. The investigation record from the case in 2011 states that the Certificate of Lawfulness for Existing Use for 2x self-contained flats at 15 Hilcot Road had been previously refused in 2010 (see planning history) and as a result the property was refurbished and retuned to use as a Use Class C4 small HMO. The investigation in 2012 concluded that the property operated within its lawful C4 class use and the property had not been subdivided. The investigation also concludes that the complaints are considered malicious.

Turning to the evidence submitted by the applicant to support the claims made within this application, the PPG makes the position clear on how the evidence submitted is to be considered. It says:

“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any 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”

Tenancy agreements, landlord closing inventories and tenants' notices to vacate properties have been provided by the applicant for the full period of 2015-Present for both the ground floor and first floor flats. Each agreement, inventory and notice is signed and dated by tenants.

Three gaps in tenancy are recorded for both flats ranging in between 2 weeks up to 1 month; this is considered de minimis and not considered unusual for private rented accommodation.

Legal Services are in agreement that the submitted evidence is sufficient to demonstrate the continuous use of 15 Hilcot Road as 2 self-contained flats and that any gaps in tenancy are considered de minimis. As the tenancy agreements demonstrate ongoing use of both flats with current tenancy agreements, there is no concern that the use of 15 Hilcot Road has been lost or changed within the 4 year period.

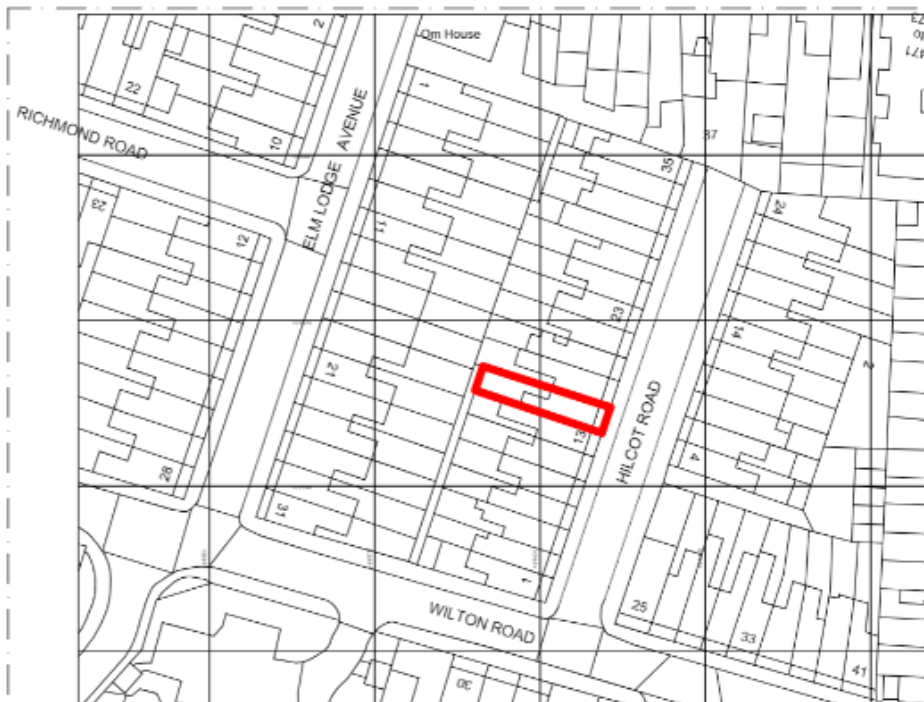
RECOMMENDATION

GRANT

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 15 Hilcot Road as 2x self-contained flats begun more than 4 years ago and there is no evidence to suggest this use was changed or lost. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Informative

Positive and Proactive - Approval



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