

## **DELEGATED APPLICATION REPORT**

**Ward:** Park

**App Ref:** 221406/CLE

**Address:** 128 Wykeham Road, Reading, RG6 1PL

**Proposals:** Certificate of Lawfulness for existing use as 2 x 1 bedroom flats (one on the ground floor and one on the first floor)

**Case Officer:** Sian Hickey

**Applicant:** Sykes Capital Ltd

**Date received (valid from):** 20 September 2022    **Target Decision date:** 15 November 20

### **Site Description**

The application site relates to a mid-terrace, two storey dwelling with a pitched roof. The property is not a listed building, nor does it fall within a conservation area. The property does however fall within an Article 4 Direction area which controls change of use from C3-C4 HMO.

The applicant states that the property was converted to two flats on 23/09/2000.

A site visit was carried out on 11<sup>th</sup> October 2022, the property is described as two self-contained flats.

### **Description of Use or Development**

Certificate of lawfulness for the existing use of the building 2 x 1-bedroom flats (C3 use); one at ground floor and one at first floor.

### **Relevant Planning History**

None.

### **Relevant Planning Policy and Guidance**

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 if 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 a planning permission. The planning merits of the 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 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”.

## **Consultations**

**Private Sector Housing:** No objections

**Environmental Health:** No objections

**Planning Enforcement:** No comments received

**Council Tax -** No comments received

## **Electoral Registration:**

| Year | Number of Registered Electors |   |
|------|-------------------------------|---|
|      | Ground floor / Top flat       |   |
| 2022 | 1                             | 1 |
| 2021 | 1                             | 2 |
| 2020 | 1                             | 2 |
| 2019 | 1                             | 2 |
| 2018 | 2                             | 2 |
| 2017 | 1                             | 2 |
| 2016 | 1                             | 1 |
| 2015 | 0                             | 0 |
| 2014 | 0                             | 0 |
| 2013 | 1                             | 1 |
| 2012 | 1                             | 1 |

**Legal:** This seems to be a straightforward case where the conversion into two dwellings is clear and the applicant has provided sufficient evidence of use as two separate dwellings over the course of the requisite period. I therefore agree with the recommendation to grant the certificate.

### **Information Submitted**

Received 20<sup>th</sup> September 2022

Location Plan

Existing Floor Plan Layouts

### **Flat 1 (Ground Floor Flat)**

- Energy Performance Certificate
- RBC Council Tax Listing
- Inventory
- Check Out Reports
- Tenancy Agreements
- Tenancy Extension Agreements

Tenancy agreements and tenancy extension agreements confirms this flat was occupied continuously from 28/05/2015 - Present by the same tenant

### **Flat 2 (First Floor Flat)**

- Tenancy Deposit Certificate
- Energy Performance Certificate
- RBC Council Tax Listing
- Check Out Reports
- Tenancy Agreements
- Tenancy Extension Agreements

Tenancy agreement and deposit protection certificate confirms this flat was occupied from 30/06/2018 - 29/06/2019

Tenancy agreement and deposit protection certificate confirms this flat was occupied from 24/06/2019 - 23/06/2020

Tenancy agreements confirms this flat was occupied from 24/06/2020 - Present

Evidence has been submitted to show that the property has been in use as two self-contained flats and the use has been ongoing in a continuous fashion for the relevant time period. In this instance, the relevant time period is four years - 20/09/18 to

20/09/22. Additional evidence has also been submitted to show the use began prior to the four year period.

### **APPRAISAL**

In order for the certificate to be granted, it needs to be demonstrated that the two flats in question have been continuously occupied for a period of 4 years prior to the date of the application. As such, the relevant time period is 20/09/18 - 20/09/22.

Tenancy agreements provided cover the entirety of the 4 year period in question.

The LPA has no sufficient evidence to the contrary to prove that the property has not been used as 2 x self- contained flats.

### **Conclusion**

In the absence of the information or evidence to contradict or make the applicant's version less probable, on balance, it is considered that the premises at 128 Wykeham Road has operated as a 2 x flats (use class C3) for a period of 4 years and is therefore immune to enforcement action. It is therefore considered a Certificate of Lawfulness for the use of the building as C3 (flats) should be granted.

### **Recommendation:**

**GRANT** Certificate

**1:1250 Location Plan (Not to scale)**

