

DELEGATED PLANNING APPLICATION REPORT

Ward: Battle

App Ref: 230870/CLE

Address: 95 Wantage Road, Reading, RG30 2SN

Proposals: Flat to the rear of 95 Wantage Road used as a C3 dwelling for more than 4 years

Case Officer: Marcie Rejwerska

Date received (valid from): 21 June 2023 Target Decision date: 6 October 2023 (ext.)

1. SITE DESCRIPTION

The application site comprises a two-storey semi-detached dwelling on the east side of Wantage Road. The application refers to the single storey outbuilding in the rear garden which is accessed through the side of the host dwelling. The immediate surrounding area is residential with similarly designed semi-detached properties. The application site is not listed nor within a conservation area. The application site is also not within an Article 4 Direction area.



95 Wantage Road. Image taken from Google Maps on 3 October 2023.

2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks to demonstrate the existing use of the rear outbuilding at 95 Wantage Road as a self-contained studio dwelling (use class C3).

3. RELEVANT PLANNING HISTORY

010681 - Proposed conversion of existing residential house into 2 x 1 bedroomed flats and 1 x. 2 bedroomed flat and rebuild of existing. sub stand and rear extension and parking. - Application refused

020611 - New rear extension creating family room and garage. - Application permitted

061391 - Single storey rear extension to form new ground floor flat - Application refused

070741 - Proposed single storey rear extension (re-submission of 06/01476/FUL) - Application refused

102117 - Certificate of lawfulness for existing use of property as a small House in Multiple Occupation - Application refused

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'.

Equality Act 2010:

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

5. CONSULTATIONS

Reading Borough Council, Electoral Registration - Response received on 17/08/2023

- Electoral records do not differentiate the host dwelling from the outbuilding, therefore there is no data.

Reading Borough Council, Council Tax - Response received on 08/08/2023

- The outbuilding has not been separately banded.

Reading Borough Council, Enforcement - Response received on 08/08/2023

- We have investigated the property twice in the past (09/00086 and 14/00002) and currently have an open planning enforcement investigation with regards to a change of use of the property to a sui generis HMO and the use of an outbuilding to the rear in use as self-contained flat under reference number E23016.

Reading Borough Council, Legal Services - Response received on 28/09/2023

- The evidence submitted is sufficiently precise and unambiguous to demonstrate on the balance of probability the use of the property as C3 dwelling has been continuous for a period of over 4 years.

6. SUBMITTED EVIDENCE

The applicant has provided the following evidence to support the use of the outbuilding at the rear of 95 Wantage Road as a self-contained flat:

- PP-12061896v1 Location Plan, dated 21 June 2023, received 21 June 2023
- 9222-P-02 Rev. A Block Plan, dated 28 March 2023, received 21 June 2023
- Photos, received 21 June 2023
- Tenancy Agreement, dated 22 March 2017, received 21 June 2023
- Tenancy Agreement, dated 22 March 2018, received 21 June 2023
- Tenancy Agreement, dated 22 March 2019, received 21 June 2023
- Tenancy Agreement, dated 22 March 2020, received 21 June 2023
- Tenancy Agreement, dated 22 March 2021, received 21 June 2023
- Tenancy Agreement, dated 22 March 2022, received 21 June 2023
- Tenancy Agreement, dated 20 March 2023, received 21 June 2023
- Statutory Declaration of Mrs Hayley Yvonne Artwell, dated 24 August 2023, received 1 September 2023
- Statutory Declaration of Ms Katarzyna Hernik, dated 24th August 2023, received 1 September 2023

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of the outbuilding at the rear of 95 Wantage Road began more than 4 years before the date of this application of 21 June 2023. The application form states that the use began on 1 March 2017. It is noted from the planning history that the outbuilding

itself was constructed in 2008 but was in ancillary use to the host dwelling prior to the use as a self-contained flat.

With regards to internal consultee response; the Council Tax team have confirmed that the outbuilding has not been separately banded. There are also no Electoral Registration records for the outbuilding which specify its separation from the host dwelling, however, this is not considered to contradict the applicant's claim that the outbuilding is a self-contained dwelling.

The Enforcement team have confirmed that 95 Wantage Road has been investigated in the past and is currently under investigation for an unauthorised change of use of the host property to a large HMO (Sui Generis), and the outbuilding as a self-contained dwelling. The investigation has not been concluded at this stage.

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 and statutory declarations have been submitted by the applicant. The tenancy agreements have been signed by tenants. These documents sufficiently demonstrate that the outbuilding has been occupied by 1 tenant continuously since 22 March 2017, and its use has not been lost or changed in the meantime. The plans and photos provided by the applicant also demonstrate that the outbuilding contains the necessary facilities to be considered self-contained (kitchen, bathroom, separate access) and the submitted statutory declaration states that the tenant has no need to access the host dwelling for any facilities.

RBC Legal Services are in agreement the submitted evidence is precise and unambiguous, and the Council does not hold any contradictory evidence.

RECOMMENDATION GRANT

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of the outbuilding at the rear of 95 Wantage Road as a self-contained studio flat (C3 use) began 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

