

DELEGATED APPLICATION REPORT

Ward: Abbey

App Ref: 230646/CLE

Address: 23 Baker Street, Reading, RG1 7XU

Proposals: Certificate of Lawfulness for Existing use as four self-contained flats (C3 Use Class)

Case Officer: Mr David Brett

Applicant: Mr S Dorsey

Date received (valid from): 11/05/2023

Target Date: 06/07/2023

Site Description and Surrounding Area

The proposal site is a three-storey end terraced dwelling with basement along Baker Street, Redlands. The surrounding area is predominantly residential with a mix of Victorian terraced rows.



Fig 1. Front of 23 Baker Street. Image captured in by the case officer on 22/06/2023.

The application site is within the Castle Hill/Russell Street/Oxford Road Conservation Area.

An accompanied site visit was carried out by the case officer on 22/06/2023

Description of Use or Development

This application seeks to demonstrate the existing use of 23 Baker Street as four self-contained flats (C3 Use Class).

Relevant Planning History

None

Consultation Responses

There are no statutory consultation requirements for a Certificate of Lawfulness application.

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 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'.

Consultations

Reading Borough Council, Electoral Registration - Response received on 21/06/2023

- Number of electors at the property:

Number of Registered Electors at: 23 Baker Street					
	Flat 1	Flat 2	Flat 3	Flat 4	Basement Flat
2023	0	1	0	0	0
2022	0	1	0	0	0
2021	0	1	0	0	0
2020	0	1	0	0	1
2019	0	1	0	0	1
2018	0	1	0	0	0
2017	0	1	0	0	0
2016	0	0	0	0	0
2015	0	0	0	0	0
2014	0	0	0	0	0
2013	0	0	0	0	0

Reading Borough Council, Enforcement - Response received on 19/05/2023

- Having checked our records (which go back to 2003) I can confirm that we have had no dealings with this property.

Reading Borough Council, Council Tax - Response received on 02/06/2023

- Our records show that this property has been subdivided into four separate flats known as basement flat, Flat 1 ground floor, Flat 2 1st floor, & Flat 3 top floor, each flat has been separately banded for Council Tax purposes since at least 01.04.1997. All four flats have been separately occupied since this time.

Reading Borough Council, Environmental Protection - Response received on 23/05/2023

- No comment regarding the application.

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

- Our records show that the building was occupied as self-contained flats dating back to 2006.

Reading Borough Council, Legal - Response received on 03/07/2023

- Agree that the certificate can be granted.

Submitted Evidence

The applicant provided the following evidence to support the use of 23 Baker Street as four self-contained flats (C3 Use Class):

- Completed Application Form
- Site Location and Block Plans - 912c 02-00
- Flats 1-4 23 Baker Street RG1 7XU - Certificate of Lawful Development Evidence Document - 912c. Document contained the following:
 - o Tenancy Agreements for Flats 1, 2 and 3
 - o Deposit Protection Certificates for Flat 1
 - o Statement of Account and Payment Advice for “Ground Floor Flat” and “Top Floor Flat”
 - o Property Maintenance Statements for “Basement Flat” and “First Floor Flat”
 - o Council Tax Bills for “Basement Flat” and “Flat 3”

Received on 11/05/2023

- As Existing Floor Plans - 912c 02-01

Received on 27/06/2023

Assessment

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use as 23 Baker Street as four self-contained flats (C3 Use Class) began more than 4 years before the date of this application of 11/05/2023. The application form states that the use began in 08/01/1996.

With regards to internal consultee responses; the Council Tax Team have confirmed that the property has been banded as four self-contained flats for Council Tax purposes since at least 01/04/1997 and that the property is let to tenants. The Council Tax Team also

stated that the property is not classed as a HMO for Council Tax purposes. It is considered that confirming 23 Baker Street as being banded does not demonstrate occupancy or use in supporting the claims made within this application. The comments from the Council Tax Team do, however, confirm that the property has been let to tenants, occupying four self-contained flats.

The Electoral Services Team have provided the number of electors registered to 23 Baker Street since 2013, with the relevant year being from 2019 onwards. There are periods in which no electors have been registered to 23 Baker Street. It should be recognised that this list is lacking in specific detail as to the exact dates of occupancy, but this is not the level of detail expected in this sort of response. It is also considered relevant that any tenants of the property are not required to register as an elector. The records provided by Electoral Services also show 23 Baker Street subdivided into four self-contained flats, with the data presented as Flats 1 to 4.

Environmental Health have provided a written response to this application, stating that the property has been occupied as self-contained flats dating back to 2006.

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”.

To cover the four-year period prior to the date of this application; Tenancy Agreements have been provided by the applicant. A total of five Tenancy Agreements have been provided, covering flats 1, 2 and 3 at 23 Baker Street. The tenancy agreements provided indicate that each floor of 23 Baker Street has been occupied as a self-contained flat. The tenancy agreements provided reflect the details provided via email by the Reading Borough Council Billing Officer in relation to Council Tax. There are gaps in tenancy, however, the Council possesses no evidence to the contrary that 23 Baker Street was occupied as anything other than four self-contained flats over the four year period from 11/05/2019 onwards.

The applicant has also provided other evidence such as statements from Property Maintenance Services, Council Tax Bills and Statements of Accounts. The statements and bills provided show addresses fields that refer to individual flats at 23 Baker Street, some of which date back to 2008. The Council Tax Bills provided are from 2014, 2016 and 2022 respectively.

On the balance of probabilities, it is considered to have been suitably demonstrated that 23 Baker Street has been a continuously occupied as four self-contained flats for a four-year period prior to the receipt of this application. This conclusion is drawn having considered all the evidence provided, and that there is no evidence to the contrary.

Recommendation

Grant

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 23 Baker Street as four self-contained flats (C3 Use Class) has been ongoing for continuously for at least four years. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Informatives

Positive and Proactive - Approval

