

DELEGATED APPLICATION REPORT

Ward: Norcot

App Ref: 211881/CLE

Address: 36 Wantage Road, Reading, RG30 2SF

Proposals: Certificate of lawfulness for the division of the original semi-detached house (no.36) into two separate flats now 36A and 36B Wantage Road

Case Officer: Mr David Brett

Applicant: Mr P Chance

Date received (valid from): 19/11/2021

Valid from: 09/12/2021

Target Date: 17/03/2022, extension of time agreed on decision from 03/02/2022.

Site Description and Surrounding Area

The proposal site is a two-storey semi-detached dwelling along Wantage Road. The surrounding area is considered largely residential, with similarly designed Victorian terraced rows and semi-detached pairs.

The application site is not listed, nor in a conservation area.

Description of Use or Development

This application seeks to demonstrate the existing use of 36 Wantage Road as two self-contained flats.

Relevant Planning History

36a Wantage Road

211986/FUL - Conversion of loft space with front and rear dormers to form additional bedroom and bathroom - Application Refused on 11/02/2022. Appeal received to the Inspector on 04/05/2022, not yet valid at the time of writing this report.

Consultation Responses

There are no statutory consultation requirements for a Certificate of Lawfulness application, however, one response to the application was received.

40 Wantage Road, Reading, RG30 2SF - Response received on 25/01/2022

- *“There is a lot of traffic in the area and this will also add additional cars to area of limited parking.”*

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 13/12/2021

- Number of electors at the property:

Year	No. of electors 36A	No. of electors 36B	No. of electors 36 Upstairs	No. of electors 36 Downstairs
2021	1	1	-	-
2020	2	2	-	-
2019	2	3	-	-
2018	1	1	-	-
2017	1	1	-	-
2016	1	0	-	-
2015	1	0	-	-
2014	1	1	-	-
2013	1	1	-	-
2012	1	-	1	1
2011	1	-	1	1
2010	0	-	0	0
2009	0	-	0	1
2008	0	-	0	1
2007	1	-	0	1
2006	1	-	0	1
2005	2	-	0	1

Reading Borough Council, Council Tax - Response received on 13/12/2021

- 36A & 36B have been separately banded for Council Tax purposes since at least 01/04/1997. Both flats have been separately let out to tenants since the date of banding.

Reading Borough Council, Enforcement - Response received on 12/10/2021

- I can confirm that Planning Enforcement have had no dealings with this property.

Reading Borough Council, Rent Guarantee Scheme - Response received on 22/02/2022

- Confirmation provided that tenants that were and are part of the Rent Guarantee Scheme are tenants of 36a and 36b where appropriate.
- Confirmation also provided that certain tenants were not part of the Rent Guarantee Scheme.

Reading Borough Council, Legal - Response received on 04/05/2022

- For flats 36a and 36b it looks on the balance of probabilities that the last tenants cover the 4 years and it would be straightforward to verify which has been carried out by the Planning Officer. I agree with the Planning Officers assessment to grant for both dwellings. I would advise making clear in the Decision the address with the relevant property internal plans and location plans included in order to clearly identify each property.

Submitted Evidence

The applicant provided the following evidence to support the use of 36 Wantage Road as two self-contained flats:

- Location Plan
- Application Letter - Dated 18/11/2021

Received on 19/11/2021

- Plans and Elevations - WR/PL/02

Received on 24/11/2021

- Evidence - Email from Reading Borough Council Finance Team

Received on 09/12/2021

- Evidence - Email from Reading Borough Council Revenues and Benefits Team

Received on 25/01/2022

- Tenancy Agreements for 36a and 36b
- Payment Remittance Advice from Reading Borough Council for payments of rent 36a and 36b Wantage Road
- Council Tax Bill for 36a
- Deposit Protection Certificate for 36a
- Deposit Protection Certificate for 36b

Received on 26/01/2022

- Bank statements detailing rent payments of a tenant of 36b
- Tenancy agreement for another property owned by the applicant (tenant formerly of 36a)

Received on 25/02/2022

- Bank statements detailing rent payments of a tenant of 36b

Received on 02/03/2022

Assessment

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use as 36 Wantage Road as two self-contained flats (both C3 use class) began more than 4 years before the date of this application of 18/11/2021. The application form states that the use began in June 2001.

With regards to internal consultee responses; the Council Tax Team have confirmed that the both flats have been separately banded as 36a and 36b since 01/04/1997. It is considered that confirming 36a and 36b as being separately banded does not demonstrate occupancy or use in supporting the statements made within this application. One Council Tax bill has been provided by the applicant to support the claims of occupancy and use made within this application.

Turning to the evidence submitted by the applicant to support the statements 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**”.*

An application letter has been provided by the agent, dated 18th November 2021. The letter states that the conversion to two self-contained flats was completed in accordance with Building Regulations in 2001, with each flat accessed via its own front door, with separate services and Council Tax to each. Whilst the statements made within the letter are not disputed, what the letter does not demonstrate is the continuous use and occupancy of the two self-contained flats in question.

The tenancy agreements provided for this application have been cross referenced with the Property Procurement Officer from the Rent Guarantee Scheme at Reading Borough Council. The Property Procurement Officer was able to confirm which tenants were part of the Rent Guarantee Scheme and provide dates of when closing inspections took place for those tenants. It has also been confirmed that the tenancy of the current tenants of 36a and 36b Wantage Road is still ongoing.

It has been confirmed that two previous tenants of 36a and 36b Wantage Road were not part of the Rent Guarantee Scheme. Therefore, it was requested that the applicant provide further supporting evidence that their tenancy continued beyond the 12 months as stated on their respective tenancy agreements. The applicant was able to provide bank statements confirming that rent payments were received for the tenant of 36b beyond the date the 12 month period covered under the tenancy agreement. The combined amounts of the last payments from the tenant, which were received on 01/10/2019 and 02/10/2019, amount to the monthly rent payment due as stated on the tenancy agreement.

With regards to the tenant of 36a, the applicant was able to provide a tenancy agreement for the tenant in question commencing on 01/05/2020 at a different property. The applicant stated in commentary on this evidence that the tenant moved out of 36a Wantage Road and moved to a different address under the applicant's ownership. There is no information to suggest that this was not the case or contradict the statement provided by the applicant, this information provided by the applicant is therefore considered reliable.

When taking all of the evidence into account submitted to demonstrate the occupancy of 36a Wantage Road, gaps have been identified in tenancy. A 34 day gap has been identified from 28/11/2017 to 01/01/2018, a 13 day gap from 01/05/2020 to 15/05/2020, and a 50 day gap from 01/06/2021 to 28/07/2021. The tenancy agreements do, however, cover a period starting from 11/11/2014 to the date of the application on 19/11/2021. From 11/11/2014 to 01/05/2020 it has been demonstrated that there have been two tenancies at 36a Wantage Road, with a 34 day gap between tenancy. These two tenancies alone cover a five-and-a-half-year period, above the four years required in which to demonstrate continuous occupancy. The 34 day break in occupancy is considered on balance not to be a meaningful break that would alter the use of 36a Wantage Road as a self-contained dwelling. There is no evidence to suggest that 36a was used for any other purpose during the 34 days in question.

On the balance of probabilities, it is therefore considered to have been suitably demonstrated that 36a Wantage Road has been a continuously occupied self-contained flat for a four year period prior to the receipt of this application.

With regards to 36b Wantage Road; two tenancy agreements have been provided. The first tenancy agreement commences on 21/04/2015 and ends on 20/04/2016. The second tenancy agreement commences on 16/10/2019 and ends on 15/10/2020. With regards to the second tenancy agreement; the Rent Guarantee Scheme have confirmed that this tenancy is ongoing. The applicant has provided a bank statement which demonstrates payments of rent from 01/03/2019 to 02/10/2019. The payment amounts of £650 are consistent with the monthly rent due on the tenancy agreement, and are from the tenant named on the 01/04/2015 to 20/04/2016 tenancy agreement. It is therefore considered on the balance of probabilities that the first tenancy at 36b Wantage Road commenced on 21/04/2015 and ended in October 2019 prior to the second tenancy.

On the balance of probabilities, it is considered to have been suitably demonstrated that 36b Wantage Road has been a continuously occupied self-contained flat for a four year period prior to the receipt of this application.

Recommendation

Grant

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 36 Wantage Road as two self-contained flats (36a and 36b) 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

