

DELEGATED APPLICATION REPORT

Ward: Caversham

App Ref: 220728/CLE

Address: Flat 6, 15 Gosbrook Road, Caversham, Reading, RG4 8BT

Proposals: Certificate of Lawfulness for Existing separation of 1 x 3-bed apartment (C3 Use Class) into 2 x 2-bed apartments (C3 Use Class).

Case Officer: Mr David Brett

Applicant: Mr P Neville

Date received (valid from): 18/05/2022

Target Date: 29/07/2022, extension of time agreed on decision from 13/07/2022.

Site Description and Surrounding Area

The application site is a three-storey block of purpose-built apartments at the corner of Gosbrook Road and Wolsey Road.

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

Description of Use or Development

This application seeks to demonstrate that Flat 6 at 15 Gosbrook Road has been used as two self-contained flats (2-bed apartments x2) for at least 4 years prior to the date of this application.

Relevant Planning History

140260/FUL - Erection of a single building containing 8 flats: 1 x 3-bedroom duplex, 2 x 2-bedroom and 5 x 1-bedroom (amended description). - Application Permitted on 18/07/2014

170769/FUL - Retrospective application for new dormer window on the east elevation - Application Permitted on 10/07/2017

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 - Responses received on 13/12/2021 and 27/06/2022

- Number of electors at the property:

Year	No. of electors Flat 6	No. of electors Flat 9
2022	2	2
2021	2	2
2020	2	2
2019	2	2
2018	2	2
2017	2	Property did not exist on Electoral Register pre-2018
2016	2	No listed property on electoral register
2015	No listed property on electoral register	No listed property on electoral register
2014	No listed property on electoral register	No listed property on electoral register
2013	No listed property on electoral register	No listed property on electoral register
2012	No listed property on electoral register	No listed property on electoral register

Reading Borough Council, Council Tax - Responses received on 06/06/2022 and 15/06/2022

- Flat 6 has been banded for CT purposes since 20.02.2017; when this building was completed. This flat has been occupied since 04.03.2017.
- Flat 9 has been banded since 23.03.2017.

Reading Borough Council, Enforcement - Response received on 06/06/2022

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

Reading Borough Council, Environmental Protection - Response received on 06/06/2022

- No comment.

Reading Borough Council, Legal - Response received on 28/07/2022

- The previous flat known as Flat 6 Wolsey House was a 2-storey duplex that was converted into 2 flats each with 2 bedrooms known as Flat 6 and Flat 9 Gosbrook Road. This application focuses solely on Flat 6, as this was the consented 3 bed apartment. The applicant has provided details of the original permission and floor plans of the two new flats, I have not seen any photographs. There is also an evidence breakdown of the tenancy agreements since 2017 to demonstrate the use of the flats. The application states that Flat 6 has been used as a single dwelling for more than 4 years. Council Tax have confirmed that the 'new' Flat 6 and Flat 9 existed on 23 March 2017 so that it is good indication of the sub-divide. On the balance of probabilities, I would recommend granting the application. I would however query what happens to flat 9, therefore I recommend stipulating this is for the new flat 6 only not 9 unless I am missing something.

Submitted Evidence

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

- Location Plan
- Layout - First Floor
- Layout - Second Floor
- Tenancy Agreements for Flat 6 and Flat 9
- Building Control Completion Certificate referring to 9 apartments, signed and dated on 21/06/2017
- Council Tax Banding for Flat 6 and Flat 9
- Energy Performance Certificate for Flat 9 dated 17/02/2017
- Domestic Electrical Installation Certificate for Flat 6
- Building Regulations Certificate of Compliance - Flat 6, dated 13/01/2017
- Energy Statement for Flat 6 dated March 2017
- Gas Safety Certificate for Flat 6, dated 16/12/2016
- Insurance Certificate for Flat 6, dated 15/01/2018
- Domestic Electrical Installation Certificate for Flat 9
- Building Regulations Certificate of Compliance - Flat 9, dated 13/01/2017
- Energy Bill for Flat 9 dated 29/03/2017
- Gas Safety Certificate for Flat 9, dated 16/12/2016
- Decision notice for application 140260
- Decision notice for application 170769

Received on 18/05/2022

- Layout - Ground Floor

Received on 09/06/2022

Assessment

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use as Flat 6, 15 Gosbrook Road as two self-contained flats (both C3 use class) began more than 4 years before the date of this application of 18/05/2022. The application form states that the use began 01/03/2017

With regards to internal consultee responses; the Council Tax Team have confirmed that the both flats have been separately banded as Flat 6 and Flat 9 since 20/02/2017 for Flat 6 and 23/03/2017 for Flat 9. It is considered that confirming Flats 6 and 9 as being separately banded does not demonstrate occupancy or use in supporting the statements 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”.

Tenancy agreements have been provided for both Flats 6 and 9 and demonstrate that Flats 6 and 9 have been continuously occupied for at least four years prior to the date of this application (18/05/2022). There are no gaps in tenancy for either flat, as the tenancy agreements indicate that they have been occupied by the same tenants since 01/03/2017 for Flat 6, and since 23/03/2018 for Flat 9.

A section of certificates and bills relating to both flats 6 and 9 have also been submitted, all of which support the claim made within this application. Existing plans have been provided which indicate that flat 6 is located to the first floor, whilst flat 9 is located to the second floor.

The agent was asked as to the feasibility of converting flat 6 into two self-contained flats based on the approved plans 170769. The agent states that the approved layout showed the internal walls that were initially thought to be loadbearing. However, a specialist roof manufacturer designed the loads to distribute through the outer walls, so all the internal walls could be adjusted to create the additional floor space as shown in the existing second floor plan. As a result, once the development was completed additional space was utilised to create Flat 9 as shown in the existing plans. The existing second floor plan submitted for this application show a larger floor area for the second-floor space (known as Flat 9) than what was approved under application 170769.

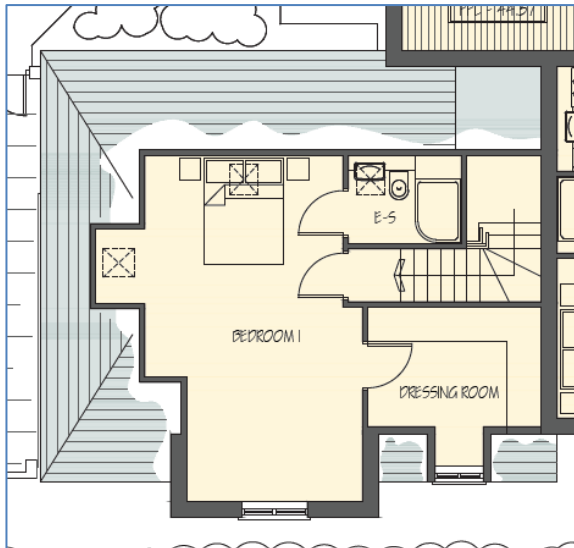


Fig 1. Approved second floor plan under application 170769.

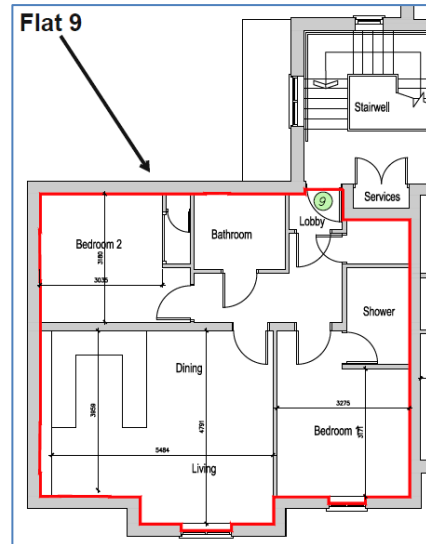


Fig 2. Existing second floor plan submitted for application 220728 demonstrating Flat 9.

On the balance of probabilities, it is therefore considered to have been suitably demonstrated that Flat 6, 15 Gosbrook Road has been a continuously occupied as two self-contained flats (Flat 6 and Flat 9) 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 the original 3 bedroom duplex flat, originally known as Flat 6, 15 Gosbrook Road, as two, two-bedroom self-contained flats (now known as Flat 6 at first floor and Flat 9 at second floor) 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

