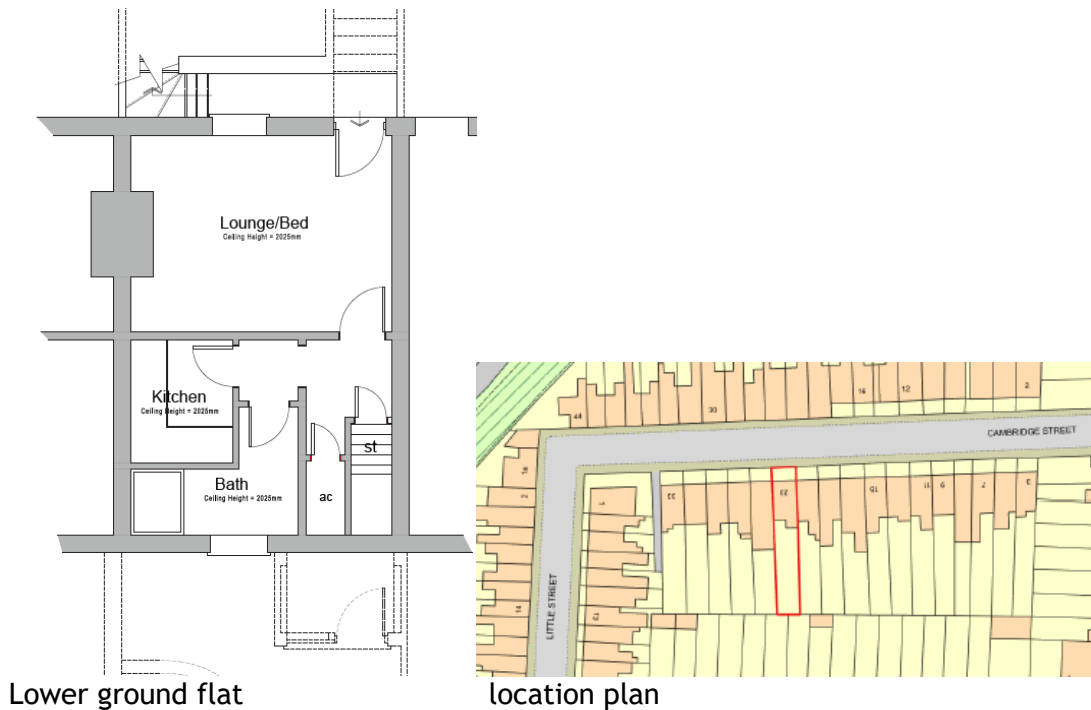


DELEGATED APPLICATION REPORT - CERTIFICATE OF LAWFULNESS

Application No: 210350/CLE

Site Address: 23 Cambridge Street, Reading

Proposal: Certificate of Lawfulness for Existing Use of lower ground floor as self-contained flat comprising a kitchen, bathroom and lounge/bedroom.



Case Officer: Tom Hughes

SITE DESCRIPTION

The Edwardian 2 storey terraced property with basement is located as shown on the location plan.

The submitted plans show that the property is divided with a 2 bedroom dwelling on the ground and first floor (not habitable use of the loft area) and a one bed flat on the lower ground consisting of a kitchen, bathroom and lounge/bedroom.

PROPOSAL

A certificate is sought to confirm the existing use of the lower ground floor dwelling, as a self-contained flat is lawful development by virtue of it being in place continuously for in excess of 4 years preceding the date the application was made.

To reconcile the description of the development with the plans provided the description of development has been changed to refer to it being lower ground floor rather than basement and that the dwelling comprises of a kitchen, bathroom and lounge/bedroom.

The NPPG provides guidance on details that must be included in each type of lawful development certificate (section 191(5) or 192(3) of the Act. Precision in the terms of any certificate is vital, so there is no room for doubt about what was lawful at a particular date, as any subsequent change may be assessed against it.

In particular a certificate for existing use must include a description of the use, operations or other matter for which it is granted regardless of whether the matters fall within a use class. But where it is within a “use class”, a certificate must also specify the relevant “class”. In all cases, the description needs to be more than simply a title or label, if future problems interpreting it are to be avoided.

PLANS & INFORMATION SUBMITTED

Location Plan

Floor plans

Evidence:

- Council Tax bill, for period 12/12/16 to 31/03/17, for basement flat
- Valuations Office Agency letter, dated 08/01/17, with notice of alteration to valuation list (accompanied by Drawing No: BA 0101 01 A - Existing Floor Plans, dated December 2016)
- Rent Guarantee Scheme payment receipts, for basement flat, dated 24/02/17 and 01/03/21
- Energy Performance Certificate, for basement flat, dated 10/02/17
- Declaration from tenant of basement flat,
- Declaration from tenant of 23 Cambridge Street (ground and first floors),
- Assured Shorthold Tenancy Agreement for basement flat
- Assured Shorthold Tenancy Agreement for 23 Cambridge Street

RELEVANT PLANNING HISTORY OF THE SITE

No history found.

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.

RESPONSE TO CONSULTATIONS

Legal -have provided the following advice:

The applicant has submitted a range of evidence which when viewed as a whole adequately supports the claim that the existing use of the lower ground floor is as claimed and has been used as such for the requisite four year period.

Enforcement History

There does not appear to be a history of enforcement against this property and Local Land Charges have confirmed that there are no planning enforcement charges registered against the property.

Council Tax

Council tax records show the basement flat has been separately banded for c.tax purposes since 12.12.2016. The flat has been let to a tenant and in occupation since 17.02.2017.

Conclusion

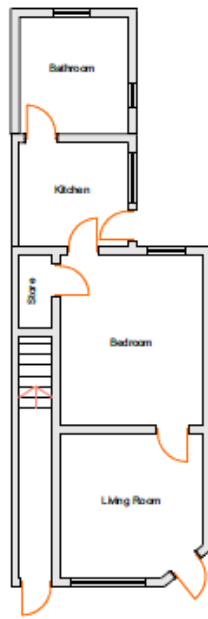
On balance, the evidence submitted seems to support the claim that the lower ground floor at 23 Cambridge Street has been in continuous use as a self-contained flat comprising a kitchen, bathroom and lounge/bedroom. self-contained flat for four years prior to the application being submitted and is therefore immune to enforcement action.

To avoid ambiguity, the description on the certificate, as amended by the officer, should be adopted.

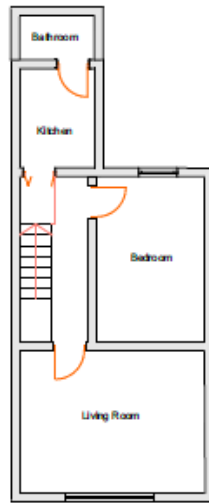
RECOMMENDATION

GRANT Certificate

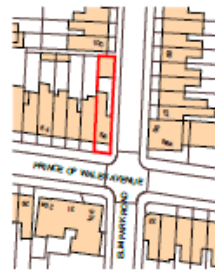
Add info about parking permits



Ground Floor Plan



First Floor Plan



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