

## **DELEGATED APPLICATION REPORT - CERTIFICATE OF LAWFULNESS**

**APPLICATION NUMBER: 210238/CLE**

**SITE: 466 Oxford Road**

### **DESCRIPTION OF USE OR DEVELOPMENT**

**Certificate of Lawfulness for Existing Use of 466 Oxford Road, RG30 1EF as a shop (Use Class E) at ground floor front and basement and 3 one bedroom flats (Use Class C3) with Flat 1 at ground floor rear with small garden and Flats 2 at first floor rear and Flat 3 at first floor front.**

### **SITE DESCRIPTION**

The site which is the subject of this application is on the corner of Oxford Road and Chester Street. The ground floor front is currently in use as a hairdressers while the upper floors and rear appear to be in residential use.



### **SITE HISTORY -**

90005 (90/01246) - Retain 1<sup>st</sup> Floor Flat and change part of shop to residential - Refused Feb 1991

960124 (96/00075) - Conversion of store to 2 flats Refused April 1996 and appeal dismissed August 1996.

**Details of these records could not be located.**

There are no records of enforcement investigations or notices served.

### **POLICY 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.

The NPPG states that “In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved. In determining an application for a prospective development under [section 192](#) of the Town & Country Planning Act a local planning authority needs to ask “if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes.”

### **SUBMITTED EVIDENCE**

The applicants have submitted the following information/evidence in support of their application:

- Tenancy agreements for the 3 flats
- Council Tax records for flat 3 from 2013
- Energy Assessment reports for flat 1, flat 2 and flat 3
- Lease document for shop dated 1/9/2000

### **RESPONSE TO CONSULTATIONS**

Enforcement confirmed no records for the property

Records provided by Electoral Services

The Council's Legal section originally commented having considered the application and table of evidence and report provided by case officer that more information was needed to corroborate the claims and to clarify the circumstances of the site - single or mixed use.

Further information was provided with signed statements from tenants of the 3 flats and it was confirmed that the additional information confirmed the use of the shop as claimed and that the additional statements corroborated the use of the flats.

The description of the certificate sought has been amended (see above) to be more precise to reflect the evidence provided.

### **ANALYSIS OF EVIDENCE**

For the purposes of establishing the existing use as 3 flats and hairdressers the applicant must demonstrate that in respect of the flats that these have been in place for 4 continuous years and the use as hairdressers has been in place for 10 continuous years subject to no enforcement action having been taken on the property.

The planning history indicates that at least in 1996 the property was in use as retail on the ground floor and that some residential use was existing. The signed statements also confirm that in the case of flats 1 & 2 that these have been occupied since 2008 with access to the garden for flat 1 (see plan below). In respect of Flat 3 the current tenant confirms has lived here since 2018 and was a close neighbour before that so was aware of the layout of the property to be as claimed before then. The Council has no evidence that conflicts with that supplied by the applicant and the evidence suggests that the claimed existing use of the property in the configuration as shown on the submitted plans is lawful. It is therefore recommended that the certificate is issued.

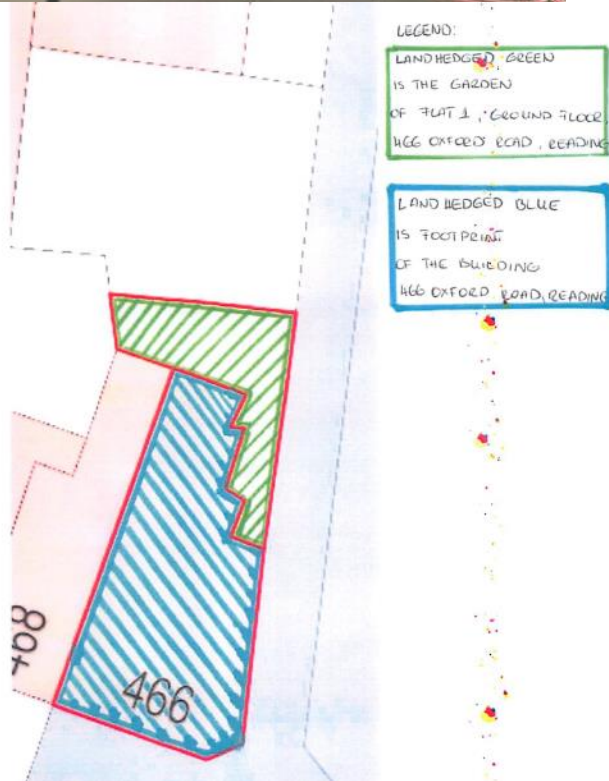
## RECOMMENDATION

Issue Certificate of Lawfulness.

Case Officer: Julie Williams

Street view photos:

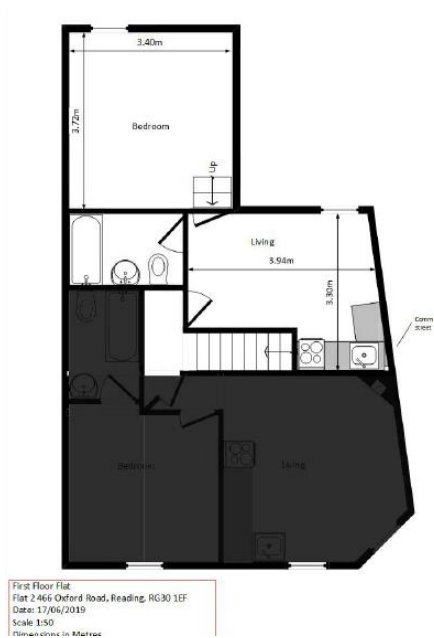




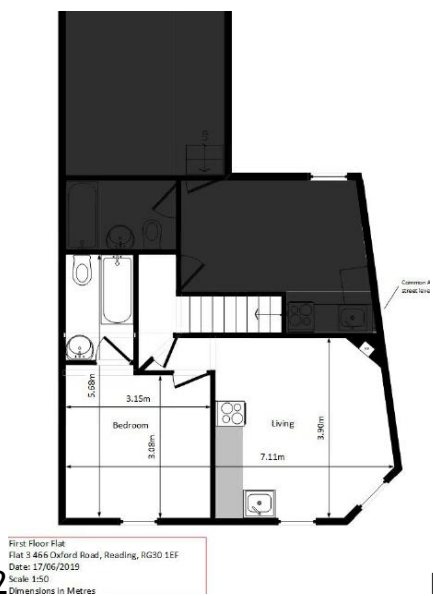
Hairdressers



Flat 1



Flat 2



Flat 3