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Section 191 of the Town and Country Planning Act
1990

Planning Statement

To accompany an application for a
Lawful Development Certificate

for the
Existing

“use as a self-contained flat”

At

Flat 7
222 Oxford Road,
Reading, RG30 1AB

By

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Introduction

1. This is an application for a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990 for the exiting development and use on land at Flat 7, 222 Oxford Road, Reading, RG30 1AB.
2. The development the subject of this application is lawful pursuant to Section 191(2). Of the Town and Country Planning Act 1990 as amended in that no enforcement action be taken in respect of the development.
3. Section 191 of the Town and Country Planning Act 1990 provides that,

191 Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3).....

(3A) *In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—*

(a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,

(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

(4) *If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.*

(5) *A certificate under this section shall—*

(a) specify the land to which it relates;

(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use, operations or other matter to be lawful; and

(d) specify the date of the application for the certificate.

(6) *The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.*

(7) *A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—*

(a) section 3(3) of the Caravan Sites and Control of Development Act 1960;

(b) section 5(2) of the Control of Pollution Act 1974; and

(c) section 36(2)(a) of the Environmental Protection Act 1990.

The land

4. The land is at Flat 7, 222 Oxford Road, Reading, RG30 1AB.

5. The site comprises of a 6 room HMO with one self-contained at ground floor level referred to as Flat 7. Given that there are 6 rooms in the property, the flat inherited the name flat 7.

6. The site is not located within a Conservation Area nor is it a Statutory Listed Building.

The Development

7. The application relates to an existing one self-contained at ground floor level referred to as Flat 7 at 222 Oxford Road, Reading, RG30 1AB.

The reasons for determining the development to be lawful

Introduction

8. The property the subject of this application has been in its current use as a house in multiple occupation plus one self-contained flat at ground floor level. No one has questioned its lawfulness. However, the new owner wants to acquire a certificate for its lawful use. It is therefore, that this application is now made.

9. Section 171B – Time Limits – provides,

171B Time limits.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.*
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.*
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.*
- (4)*

10. For the requirement of satisfying the council of the lawfulness of the existing use of the property to a level sufficient to issue a LDC it is only necessary to visit the use of the property over the last 4 years, however, for completeness, this statement will provide a little of the history of the property.

Reasons

11. An evidence bundle is provided with the application bundle. The evidence bundle includes the following:

- HMO licenses dating from 2013 all referring to the ground floor rear self-contained flat;

- A fire safety assessment dated 1981 which includes an attached plan clearly showing the ground floor self-contained flat with another 6 bedsits through the remainder of the house;
- A Background Report carried out in respect of Flat 7 at 222 Oxford Road, Reading, RG30 1AB. The report provides the occupancy history of Flat 7 from 2005 through to 2021. See table at page 10. At page 13, the report demonstrates that Tapiwa Zhakata occupied the flat from 2007 to 2018. (although the report found no evidence of occupation in 2008-2009, it did find evidence from 2010 onwards). This is enough to provide evidence for the purpose of lawful use provided that the use was not abandoned after that.
- After that the flat was occupied by Anna B Koska.

12. All this provides precise and unambiguous evidence of the use of the flat for the relevant four year period.

Date of the application for the certificate

13. This application is made on 22nd July 2021.

Conclusion

14. This application provides information that satisfies the claim that the matter described in the application is lawful at the time of the application.