

Delegated Application Report

Target Date: 10/05/2019

Address: 37 St Georges Road, Reading, RG30 2RG

Application No: 190370

Proposal: Certificate of lawfulness for existing use as two flats

Case Officer: Anthony Scholes

Site Description

The property is located on the eastern side of St Georges Road. This certificate relates to the ground and first floor use of the property as two C3 (dwellinghouse) flats.

Description of Use or Development

The dwelling was originally subdivided into two flats, although it is unclear at what time this had occurred. The applicant has owned the property since 2014, at the time of purchase the property was as existing, with only minor internal alterations since that time. This certificate is seeking to establish the lawfulness of the dwelling as 2 x 1-bedroom flats.

Relevant Planning History

140581/FUL - Retrospective application for conversion of existing two storey residential property into 2 x 1 bedroom self-contained flats. REFUSED

041342/FUL (04/00455/FUL) - Conversion to 2 flats REFUSED

992039/OUT (99/1153/OUT) - Erection of 2 x Semi-Detached Dwellings with Parking to Rear APPROVED (appears unimplemented)

992038/OUT (99/1152/OUT) - Erection of 4 x 1 Bedroom Flats with Parking Spaces to Rear and 1 Garage for no. 37 REFUSED

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

Council Tax

The internal Customer Services Property Inspector made the following comments:

- Since 05.03.2014 this property has been considered a HMO for c/tax purposes and the owner has been liable.

Electoral Registration

The electoral registration shows the following information:

Date Period	Registered residents
2005	No Residents
2007-2006	2 Residents
2009-2008	No Residents
2012-2010	2 Residents
2014 - 2013	1 Resident
Current - 2015	No Residents

Environmental Health

No response.

Legal

The initial statutory declaration provided sufficient evidence that one of the flats had been in use for a continuous 4 year period. However, there was a gap in one of the flats being occupied for 2 years and as such was not considered sufficient evidence to establish lawful use. The applicant provided an amended statutory declaration providing additional evidence that the flat without sufficient evidence initially, was in fact occupied during the aforementioned 2 year period. As such, the certificate can be issued.

Submitted Evidence

The evidence supplied consists of a statutory declaration including a number of tenancy agreements for each flat, including an amended statutory declaration including the additional information that was not supplied initially.

Analysis of Evidence

For the purpose of a change of use from a C3 dwellinghouse to 2x 1-bed flats the applicant must demonstrate that the change of use has been in place for 4 years subject to no enforcement action having been taken on the property.

A statutory declaration has been submitted, it is considered that the evidence provided, coupled with the consultation responses received from the electoral registration, council tax and legal departments, is sufficient to determine that this property has been used as a 2x 1-bed flats for a continuous period of at least 4 years. As such it is recommended that a certificate of lawfulness (existing) be granted.

Recommendation

Grant

