

DELEGATED APPLICATION REPORT

Address: 51 Russell Street

Application No. 180025/CLE

Proposal: Certificate of Lawfulness of existing use as 4 flats

Case officer: Matt Burns

Site Description and Surrounding Area

The application relates to a three storey (with basement) mid-terrace property located on the east side of Russell Street. The street predominantly consists of residential properties and is located within the Russell Street/Castle Hill Conservation Area.

Use

The application seeks a lawful development certificate for the existing use of the property as 4 self-contained C3 flats.

Evidence Submitted

- Details showing each of the flats has been banded for Council Tax purposes since 1993
- Statutory Declaration

Basement Flat

- Tenancy Agreement - June 2011 to June 2012
- Tenancy Agreement - September 2015 to March 2016

Ground Floor Flat

- Tenancy Agreement - March 2009 to August 2009
- Tenancy Agreement - September 2012 to September 2013
- Tenancy Agreement - August 2016 to January 2017

First Floor Flat

- Tenancy Agreement - April 2012 to October 2012
- Tenancy Agreement - December 2014 to November 2015

Second Floor Flat

- Tenancy Agreement - July 2011 to July 2012
- Tenancy Agreement - February 2013 to July 2013
- Tenancy Agreement - March 2016 to August 2016
- Tenancy Agreement - July 2017 to December 2017

Consultation Responses

RBC Electoral Services - Have provided information showing that a varying number of residents have been registered from the four flats since 2005.

RBC Council Tax - Confirm that the property has been split into 4 separate flats and banded for council tax purposes since at least 01.04.1997.

RBC Enforcement - Confirm that the property does not have an enforcement history.

RBC Legal Services - Following submission of additional evidence in the form of a statutory declaration advise that a certificate can be granted for the terms applied for.

Relevant Planning History

None.

Government 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.

Appraisal

The applicant needs to demonstrate that the building has been used as four separate flats continuously for a period of four years in order to receive a Certificate of Lawful Existing Use.

The applicant has provided a range of tenancy agreements for each of the flats dating from March 2009 to present, albeit the span of these agreements do not confirm occupation of any of the units for a continuous four year period. Notwithstanding this, RBC Council Tax and RBC Electoral Services have confirmed that each of the four flats have been registered for such purposes dating from 1993 and 2005 to present day respectively. A statutory declaration has also been submitted which states that the gaps in the time periods of the tenancy agreements submitted for each flat are when the occupants switch to periodic tenancy under the Housing Act.

Based on the evidence submitted by the applicant and also that held by the Council it is considered that, on the balance of probability, that the building has been used as four separate flats continuously for a period of four years and therefore a Certificate of Lawful Existing Use can be granted.

Recommendation

GRANT a Certificate of Lawfulness of Existing Use or Development.

Reason

On the basis of the available evidence and on the balance of probabilities, it is considered that the building has been in continuous use as four separate flats for a period exceeding 4 years and is therefore immune to enforcement action. Therefore, a Certificate of Lawfulness can be granted.



**UK
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Maps**



51 Russell Street, Reading, RG1 7XG



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