

DELEGATED PLANNING APPLICATION REPORT

Ward: Southcote

App Ref: 240450/CLE

Address: The Limes, 7 Southcote Road, Reading

Proposals: Certificate of Lawfulness for Existing use as 5 Flats

Case Officer: Marcie Rejwerska

Date received (valid from): 25 April 2024 Target Decision date: 20 June 2024

1. SITE DESCRIPTION

The application site comprises a detached property on the west side of Southcote Road, on the corner with Westcote Road. The surrounding area is residential, comprised of mostly block of apartments and semi-detached dwellings. The application site is not within an Article 4 Direction area.



Application site, image taken from Google Earth on 17 June 2024.

2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks to demonstrate the existing use of the property as 5 self-contained flats (C3 use class).

3. RELEVANT PLANNING HISTORY

None.

4. LEGAL AND PLANNING POLICY CONTEXT

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’.

Equality Act 2010:

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

5. CONSULTATIONS

RBC Electoral Registration, response received on 14/05/2024:

Year	Flat A	Flat B	Flat C	Flat D	Flat E
2024	1	0	1	1	1
2023	1	0	1	1	1
2022	2	0	0	1	2
2021	2	0	0	1	2
2020	1	0	0	1	2
2019	1	0	0	1	2
2018	1	2	1	1	NA
2017	1	1	1	2	NA
2016	1	1	1	0	NA
2015	1	0	1	0	NA

RBC Council Tax, response received on 14/05/2024:

- I can confirm our CT records show the five flats as being separately banded since 01.04.2008; all flats are separately occupied and have been since the date of banding.

RBC Planning Enforcement, response received on 29/05/2024:

- We have no record for the land.

RBC Legal Services, response received on 10/06/2024:

- Sufficient evidence has been submitted and there is no evidence to contradict the applicant's claim.

6. SUBMITTED EVIDENCE

The applicant has provided the following evidence to demonstrate the use of The Limes, 7 Southcote Road as 5 self-contained flats (C3 use class):

Supporting Letter, dated 27th February 2024

Statutory Declaration, dated 26th February 2024

VOA Letter to confirm banding from single dwelling to 5 flats, dated 16 June 2008

RBC Council Tax bills, dating 2010, 2020, 2023

Electrical connections for flats quote, dated 14 May 2003

Various Tenancy Agreements for flats B-E

Floor Plans, dated 9 December 2023

Location Plan, dated 15 March 2023

Block Plan, dated 15 March 2023

Received by the LPA on 10 April 2024

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of The Limes, 7 Southcote Road as 5 self-contained flats (C3 use class) began more than 4 years before the date of this application on 25 April 2024. The application form states that the use began on 01 June 2008.

With regards to internal consultee comments, the Council Tax records show that the property was banded in 2008 as five separate flats, which supports the applicant's claim. The Electoral Register records do not indicate occupation numbers and is therefore not considered to have significant weight. There are also no Planning Enforcement records relating to the application site.

Turning to the evidence submitted by the applicant to support the claim made within this application, the PPG makes the position clear on how the evidence submitted is to be considered,

"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability"

The applicant has submitted tenancy agreements dating from 2010, statutory declarations, Council Tax bills, and electricity safety records to demonstrate the continuous use of the property since 2008. The applicant has also provided additional information with regards to move-out dates for each submitted tenancy agreement. There are a few time gaps within the evidence submitted, most of which are de minimis, with the longest gap being 5 months, which the applicant has clarified was due to renovations taking place, although no evidence of this has been submitted.

RBC Legal Services are in agreement that on balance the applicant's claim is supported by sufficient evidence, and that the LPA does not hold any contradictory evidence. It is, therefore, considered that a consistent pattern of occupation has been demonstrated to justify the grant of a certificate on the balance of probabilities.

RECOMMENDATION

GRANT CERTIFICATE

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of The Limes, 7 Southcote Road as 5 self-contained flats (C3 use class) comprised of Flat A, Flat B and Flat C at first floor, Flats D and E at ground floor, began more than 4 years ago, and there is no evidence to suggest that this use was changed or lost. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Location Plan (scale 1:1250)

