
**STATEMENT IN SUPPORT OF A
CERTIFICATE OF LAWFUL USE FOR
USE OF 55 BAKER STREET, READING,
RG1 7XX AS 5 SELF CONTAINED
RESIDENTIAL DWELLINGS**

55 BAKER STREET, READING, RG1 7XX

WBP REF: 8390

**CERTIFICATE OF LAWFUL USE
PLANNING STATEMENT**

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1. INTRODUCTION & SUMMARY

- 1.1. The application relates to a certificate of lawful use for use of the property at 55 Baker Street, Reading, RG1 7XX as 5 no. self-contained residential dwellings (use class C3).
- 1.2. The applicant applies under the provisions of Section 191 of the Town and Country Planning Act 1990 (as amended) for a Certificate of Lawful use. The grounds for the certificate are that use of the property as 5 no. self contained dwelling houses began more than 4 years before the date of the application and this use has been continuous within a relevant 4 year period.
- 1.3. This statement sets out details relating to the:
 - Relevant legislative / planning policy context;
 - Relevant site context;
 - Assessment of the issue; &
 - 'The Balance of Probability' & Conclusions.

2. RELEVANT LEGISLATIVE / PLANNING POLICY CONTEXT

2.1. The statutory framework for such applications and their determination is detailed in Sections 191 to 193 of the Town and Country Planning Act 1990 ("the Act").

2.2. The statutory framework covering a certificate of lawful use or development is set out in Section 191 (2) of the Act:

(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.

2.3. Further Section 171B (2) of the Act states:

(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.

2.4. Applying the definition in Section 336 of the Act, the "building" will include any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. This is also consistent with Section 55 (3) of the Act that confirms that use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse

involves a material change in the use of the building and of each part of it which is so used.

- 2.5. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or for which planning permission is not required. In the case of this proposal, development becomes immune from enforcement if no action is taken within 4 years for an unauthorised change of use to 5 no. self-contained dwelling houses.
- 2.6. The evidence submitted alongside this submission is considered to be comprehensive and allows the grant of the Certificate of Lawful use. It is considered that there is considerable evidence that suggests the certificate should be granted. In applying the lawful test which requires “on the balance of probabilities”, it has been demonstrated that the use has been as 5 no. single dwelling houses for over 4 years. This case is expanded upon in later sections of this statement below.
- 2.7. The National Planning Practice Guidance (“PPG”) confirms the following principle (Paragraph:006 Reference ID: 17c-006-20140306):

The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to

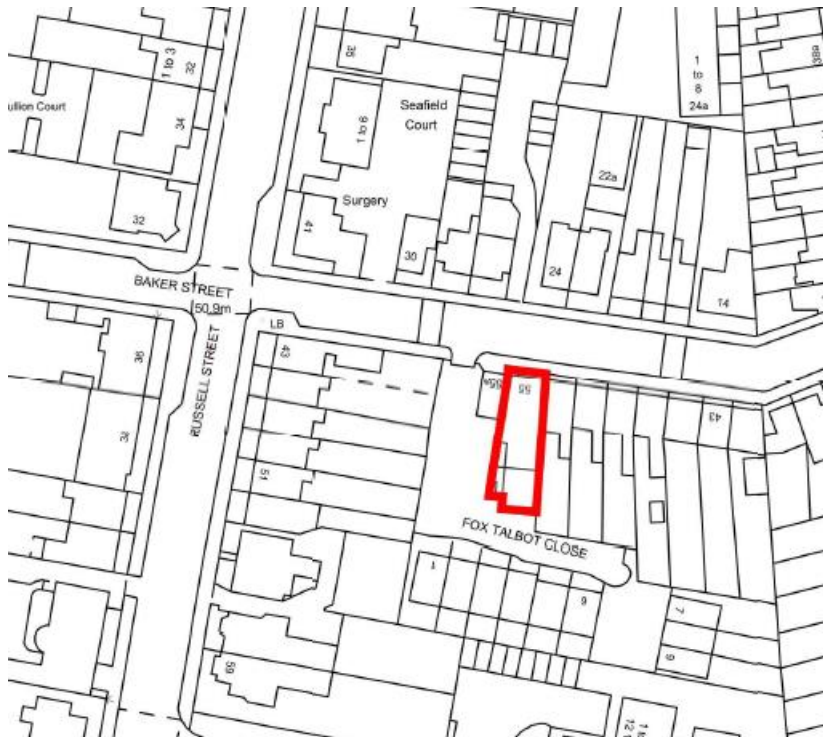
contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. (Our emphasis)

- 2.8. The above guidance conveys principles also underpinned by various case law, namely the test is on the "balance of probabilities" not for example "beyond reasonable doubt" (as would apply in a criminal prosecution case). Further, the "Certificate of lawful use or development appeals: procedural guide" (dated June 2022) includes further reference to the principle that the appellant's own evidence does not need to be corroborated, particularly if it is unchallenged, in order to be accepted:

The Court has held that the appellant's own evidence does not need to be corroborated by 'independent' evidence, particularly if it is unchallenged, in order to be accepted. However, it is the appellant's responsibility to provide clear evidence to justify the grant of a certificate. (paragraph 5.3.4).

3. SITE CONTEXT

- 3.1. The subject of this application forms the property at 55 Baker Street, Reading, RG1 7XX. The site's location is shown on the extract taken from the supporting Location Plan below.



Extract from Location Plan

- 3.2. There is no relevant planning history to the site. The site has been owned by the applicant (or his family) since 1928.
- 3.3. As detailed in the statutory declaration of Mr Clive Litten (accompanying this submission), the site has been subdivided into flats for many decades. In 1971, the property was refurbished by the applicant's father into the current layout found on the site today. However, even before the 1971 refurbishment works, the site was sub-divided into flats. There are 5 flats in the building that have always been referred to as flats 1, 3, 4, 5 and 6 (NB: there is no flat 2). Their layout is illustrated on the floor plan extracts below.



Ground (left) and first (right) floor plans at 55 Baker Street



Second (left) & roof (right) floor plans at 55 Baker Street

3.4. The flats within the building can be summarised as follows:

- Flat 1 is a 1 bed flat and is accessed from the communal hallway via 2 separate doors. It is located at ground floor level.
- Flat 3 is a 1 bed flat accessed from a communal hallway and is located at the front of the building. It is located at first floor level.
- Flat 4 is a 1 bed flat (with office) and is accessed from an internal staircase and is located in the middle and to the rear of the building. It is located at first floor level.

- Flat 5 is a 1 bed flat (with a box room) and is accessed from a communal hallway at the front of the building. It is located at second floor level.
- Flat 6 is a 1 bed flat and is accessed from an internal staircase and is located at the rear of the building. It is located at second floor level.



Front Elevation of 55 Baker Street

3.5. Views of the rear and flank elevations of the building are provided below.



Rear Elevation of 55 Baker Street



Side Elevation of 55 Baker Street

- 3.6. The main door entrance to the building (visible on the front elevation image above) provides access to all 5 flats via two separate communal staircases contained within the fabric of the building. The respective post boxes to the 5 flats are shown on the image below. These 5 post boxes are also evident on the subsequent image taken in June 2009 (with the front door was painted a different colour at that time).



Front Door to 55 Baker Street



Google Street view image (Dated June 2009)

4. ASSESSMENT OF THE ISSUE

- 4.1. With regard to the above context, the main issue (and associated evidence) is now considered. Namely, is there any evidence to contradict or otherwise make the appellant's version events less than probable. If there is not, the certificate should be granted.

The Application Form

- 4.2. In section 4 of the application form, the applicant confirms the application is for "An existing use" and that the use applied for is 5 no. self contained Use Class C3 – Dwellinghouses.
- 4.3. In section 5 of the application form, the Description of the Existing Use is "The existing property has been sub-divided and used as 5 separate independent self-contained dwelling houses for more than 4 years". The form refers to that use as 5 no. separate self-contained dwelling houses as occurring for 4 continuous years since 31 December 1971. It is the applicant's knowledge that in fact the site has been operating in this use from a date far earlier than 1971 but for simplicity and given the 1971 date substantially exceeds the 4 year immunity period, the 31 December 1971 date is used.

The Existing Plans

- 4.4. As can be seen from the existing plan, the ground floor of the building forms 1 no. self-contained flat, the first floor contains 2 no. self-contained flats and the second floor contains 2 no. self-contained flats. Each flat includes a bedroom, kitchen, lounge, bathroom and separate main entrance. Two flats (flat nos. 4 and 5) contain an additional box room. Each flat is arranged to allow for comfortable independent living.

Statutory Declaration – Clive Litten (owner)

- 4.5. A statutory declaration has been prepared by Clive Litten. Such a declaration is of course of a written statement of fact signed in the presence of a solicitor and made pursuant to the Statutory Declarations Act 1835. Making a false

statement can comprise a criminal offence and it therefore forms a legal document that carries significant weight.

- 4.6. The declaration confirms that Mr Litten has had a strong knowledge of the site as it has either been owned by his family or himself throughout his entire lifetime. It confirms that Mr Litten has part owned the site since 1990 when 50% ownership was gifted to him by his father. Mr Litten's statutory declaration confirms that prior to 1971, the property was subdivided into flats and then in 1971, the flats as they existed at that time were refurbished, modernised and internal alterations were made in some places. That layout remains effectively the same on the site today and the site has been in use as 5 separate independent residential dwellings ever since. Mr Litten confirms that domestic Council tax has been charged to the 5 flats since 1971. Correspondence between the Council's billing officer and himself (dated January 2024) confirms this position and appended to the statutory declaration as Document 3. All 5 flats are registered separately by Royal Mail. Water bills are paid by the individual tenants direct to Thames Water and electricity is paid by tenants using coin metres within the building. Mr Litten goes to pick up the monies up himself and then pays the utility provider direct. That is with the exception of flat 1 that has its own separate meter. Mr Litten confirms that the property has been used as 5 no. independent self-contained residential dwellings since 1971 (and actually before). This has been ongoing since that date and where vacancy has arisen there have been no intervening uses in the intervening periods.

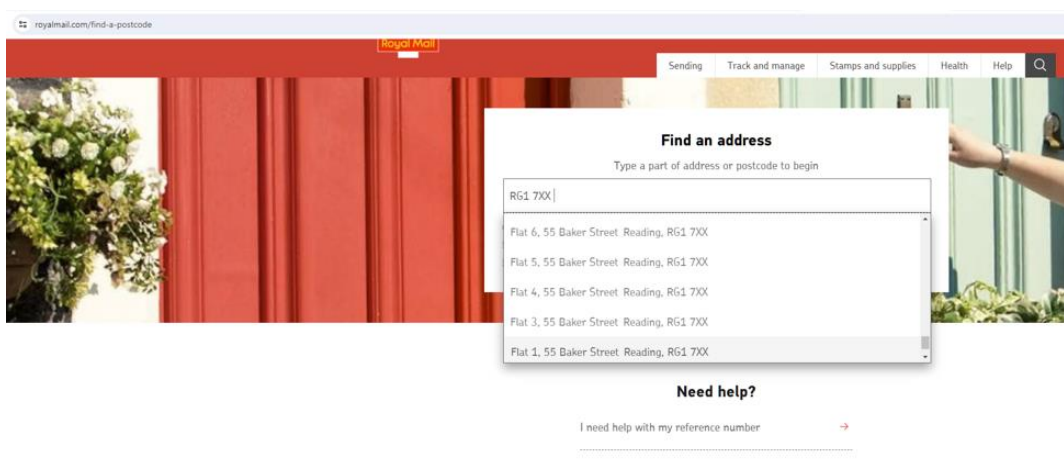
Relevant Analysis

- 4.7. The relevant test must be remembered for this application. Namely, if a Local Planning Authority has no evidence itself, nor from any others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application.
- 4.8. The site context evidences its use as 5 no. separate residential dwellings. Each flat's layout is clearly set up for separate residential dwelling use including bedroom, lounge and kitchen space and separate toilet / shower

accommodation. Each flat is accessed separately from a communal hallway within the building. Further, the site features 5 separate post boxes serving each flat. Various evidence has been submitted. In particular, a comprehensive and detailed statutory declaration has been prepared by the owner. The statutory declaration provides legally recorded and comprehensive information to confirm the continuous use of the property as 5 no. self contained residential dwellings over a period that very substantially exceeds the relevant 4 year period. This owner has had a knowledge of the site for over 70 years and this can be relied upon as clear and strong evidence.

4.9. As mentioned within the statutory declaration, 55 Baker Street has been subject to domestic Council tax since 1971. Correspondence held with Charlotte Rosier (the Council's Billing officer) confirms the 5 separate flats have all been billed for separate Council tax from 1 April 1997. That date is the earliest record the billing officer holds and provides clear evidence of 5 flats in independent use in recent times.

4.10. The below extract taken from the Royal Mail website's 'Find an address' function further evidences the existence of 5 self contained dwellings at the 55 Baker Street site:



Extract from the Royal Mail website (dated April 2024)

4.11. All 5 no. flats benefit from EPC certificates as detailed below:

- Flat 1 – Rated F and expires in March 2025.
- Flat 3 – Rated D and expires in May 2033.
- Flat 4 – Rated E and expires in May 2033.
- Flat 5 – Rated G and expires in September 2029.
- Flat 6 – Rated G and expires in September 2032.

4.12. It has therefore been demonstrated that as a matter of fact and degree and on the clear balance of probability (supported by a statutory declaration taken on oath) that the use of 55 Baker Street as 5 no. self-contained independent dwellings since 1971 has occurred. Accordingly, the Certificate of Lawful use can be appropriately granted.

5. CONCLUSION

- 5.1. The submission provides sound evidenced reasons for granting the certificate of lawful use of the 55 Baker Street as 5 no. self contained residential dwellings. Accordingly, the Certificate of Lawful use can be appropriately granted.
