

DELEGATED APPLICATION REPORT

Ward: Caversham

App Ref: PL/24/1008 Lawful development: Existing use

Address: 61 OXFORD STREET, CAVERSHAM, READING, RG4 8HN

Proposal: 61a Oxford Street used as a single dwelling for more than 4 years.

Applicant: Mrs Jolanta Kilroy

Received date: 2024-08-06

Target Decision date: 2024-10-18 (EOT)

Case Officer: Marcelina Rejwerska

1. SITE DESCRIPTION

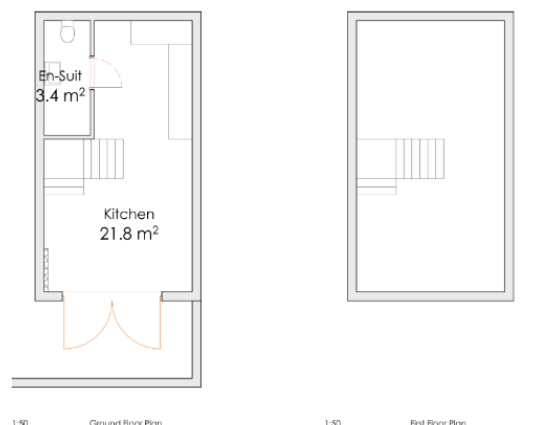
The application site comprises a single storey annexe at the rear of 49 Hemdean Road, facing onto Oxford Street. The annexe has a mezzanine floor comprising the bedroom of the self-contained unit. The site is not within an Article 4 Direction Area.



Images submitted by the applicant.

2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks to demonstrate the existing use of the annexe at 49 Hemdean Road, Caversham, known as 61a Oxford Street, Caversham, as a 1-bedroom self-contained dwelling (C3 use class) for more than 4 years.



Floor plan as existing

3. RELEVANT PLANNING HISTORY

PL/22/1934 - Certificate of Lawfulness for Existing use of 61a Oxford Street as a single dwelling (C3 use) – Refused due to insufficient evidence.

PL/14/1250 - Certificate of Lawfulness for existing use as a single dwelling house – Refused, on the basis that no change of use had taken place as the annexe was purposefully built as a residential unit ancillary to 49 Hemdean Road, Caversham.

PL/06/0109 – Replacement of garage with studio – Application permitted.

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 Council Tax – response received on 22/08/2024:

- 61a Oxford Street has been banded since 10/11/2014. The property has been occupied since the date of banding.

RBC Electoral Registration – response received on 27/08/2024:

- 61A was not listed on the electoral register prior to 2021.

2024	1
2023	1
2022	1
2021	0

RBC Planning Enforcement – response received on 30/09/2024:

- PE/07/0463 – Breach reported that annexe was in residential use. This was remedied and case closed.
- PE/09/0249 – Breach reported that annexe was in residential use. This was remedied and closed.
- PE/23/0062 – Breach reported that annexe is in residential use. Case is open and ongoing.

RBC Private Sector Housing – no response received.

RBC Legal Services – response received on 08/10/2024:

- Sufficient evidence has been submitted.

6. SUBMITTED EVIDENCE

The applicant has provided the following evidence to demonstrate the use of 61a Oxford Street as a 1-bedroom self-contained dwelling (C3 use class):

Drawing no. 9152-100 Location Plan, dated 08/08/2022, received

Drawing no. 9152-101 Ground Floor Plan, dated 08/08/2022

Statutory Declaration from past tenant, signed 12/05/2021

Statutory Declaration from current tenant, signed 09/12/2022

Various tenancy agreements

Various electric bills addressed to tenant as named in statutory declaration and tenancy agreements dating between 2019 and 2022

Various water bills addressed to tenant as named in statutory declaration and tenancy agreements dating between 2019 and 2021

Various Council tax bills addressed to owner dated between 2021 and 2022

Electoral registration letter address to tenant as named in statutory declaration and tenancy agreements dated 2022

Received by the LPA on 6th August 2024

Statutory Declaration from owner, signed 01/10/2024

Received by the LPA on 01/10/2024

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of 61a Oxford Street as a 1-bedroom self-contained dwelling (C3 use class) began more than 4 years before the date of this application on 6th August 2024. The application form states that the use began on 1st July 2016.

With regards to internal consultee comments, the Council Tax records show that 61a Oxford Street has been banded and occupied since 2014. The applicant has submitted Council Tax bills addressed to the owner of the property as evidence. The Council Tax record, therefore, does not contradict the

applicant's claim. The Electoral Register records do not indicate occupation numbers and is, therefore, not considered to have significant weight. The Planning Enforcement history also supports the applicant's claim that the annexe was intermittently used as an ancillary building to 49 Hemdean Road – this use is recorded in site visit notes from the Planning Enforcement cases.

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 various evidence to demonstrate continuous occupation of 61a Oxford Street by a single tenant at any one time. The evidence covers the qualifying period of 4 years and is clear and unambiguous. The statutory declaration provided by the owner supports their claim that the use commenced 10+ years ago.

RBC Legal Services agree that sufficient evidence has been submitted to grant the certificate.

8. RECOMMENDATION

GRANT CERTIFICATE

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 61a Oxford Street, Caversham as a 1-bedroom, 1-person self-contained dwelling (C3 use class) 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)



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