

DELEGATED APPLICATION REPORT

Ward: Katesgrove Ward

App Ref: PL/24/1251

Address: 83 PELL STREET, READING

Proposal: Lawful development certificate for the use of the property under C3 category (dwelling houses) for three self-contained flats

Case Officer: Mishga Marshall

Applicant: Mr Antonio Mariano

Date received (valid from): 07/10/2024

Target Decision date: Originally 19/11/2024; EOT agreed until 24/01/2025

INTRODUCTION

The proposal site is an end of terrace two storey dwelling on the northern side of Pell Street. The area is residential, with a mix of terraces and flats. There are no constraints present on site. PD Rights have not been removed, and the site is not located in Article 4 land.

PROPOSAL AND SUPPORTING INFORMATION

The application seeks a Lawful Development Certificate for the use of 83 Pell Street under C3 for three self contained flats. This application will be assessed under the 4 year rule for existing certificates.

SITE VISIT

Site visit date: 08/11/2024

Site visit photos:



Plans and Documents

1. Cover Letter - 20 Sept 2024
2. Purchase agreement
3. ~~Floor Plan for Flat 1, 83 Pell Street, Reading, RG1 2NP~~
4. Floor Plan for Flat 2, 83 Pell Street, Reading, RG1 2NP copy - 22/01/2025
5. Floor Plan for Flat 3, 83 Pell Street, Reading, RG1 2NP copy - 22/01/2025
6. Statutory Declaration - Paul Diamant
7. AST Agreements for flat Flat 1, 83 Pell Street, Reading, RG1 2NP 21.03.2019-until present
8. AST agreements for flat Flat 2, 83 Pell Street, Reading, RG1 2NP 27.10.2020-until present
9. AST agreements for flat Flat 2, 83 Pell Street, Reading, RG1 2NP 06.10.2019-until present

10. EPC Flat 1, 83 Pell Street, Reading, RG1 2NP - 20 Sept 2024
11. EPC Flat 2, 83 Pell Street, Reading, RG1 2NP - 20 Sept 2024
12. EPC Flat 3, 83 Pell Street, Reading, RG1 2NP - 20 Sept 2024
13. Photo evidence - front elevation
14. Location Plan - 23 Sept 2024
15. Title Plan BK20423
16. Amended Floor Plan for Flat 1, 83 Pell Street, Reading, RG1 2NP - 11/12/2024

RELEVANT PLANNING HISTORY

N/A

CONSULTATIONS

RBC Council Tax - response received; all three flats are separately banded for Council Tax purposes.

RBC Electoral Registration - response received; all three dwellings listed on the register.

RBC Planning Enforcement - response received; no record for the property.

RBC Legal Services - agree that the certificate can be safely granted.

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.

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'.

ASSESSMENT

In order for a Certificate of Lawfulness to be granted for this application, the applicant must demonstrate that the property has been used as three separate self-contained flats, continuously, for more than 4 years before the date of the application on 24th September 2024.

The statutory declaration provided with the application indicate that the property has been used as 3 separate flats since 01/08/2014.

With regard to internal consultee comment responses the Council Tax team has confirmed that the flats are separately banded and have been since 2015. The Planning Enforcement team has confirmed that there is no enforcement history at this address.

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 evidence submitted i.e statutory declaration, tenancy agreements, energy letters support the claim that the property has been in use as three self-contained units for at least four years, prior to the application being submitted. The site visit carried out by the planning officer 8/11/24 established that the ground floor plan submitted was incorrect. A revised plan was submitted amending position of doors - this is not considered to provide any conflict with the use claim or other evidence provided.

In the absence of evidence to the contrary, and corroborating evidence held by the Council, on the balance of probabilities, it can be confirmed that the property has operated as three self-contained flats (Use Class C3 residential) for a period of 4 years and is, therefore, immune to enforcement action. It follows that there is sufficient justification to grant the certificate of lawfulness.

RBC Legal Services agree that the certificate can be issued in the terms applied for.

OVERALL RECOMMENDATION

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that 83 Pell Street has been used as separate flats for 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.

It can be confirmed that the existing operations would be lawful for planning purposes on the basis of the following received 23/09/2024, 22/01/2025 and Amended plan received on 11/12/2024:

1. Cover Letter - 20 Sept 2024
2. Purchase agreement
3. ~~Floor Plan for Flat 1, 83 Pell Street, Reading, RG1 2NP~~
4. Floor Plan for Flat 2, 83 Pell Street, Reading, RG1 2NP copy - 22/01/2025
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Therefore, the Local Planning Authority can issue the applicant with a Certificate of Lawfulness for the existing development.

Informatives

