

DELEGATED APPLICATION REPORT

Ward: Battle Ward

App Ref: PL/25/0452 Lawful development: Existing use

Address: 542 OXFORD ROAD, READING, RG30 1EG

Proposal: Certificate of lawfulness for existing use as 6 self-contained dwellings

Applicant: Noble & Jones Property Management

Received date: 24/03/2025

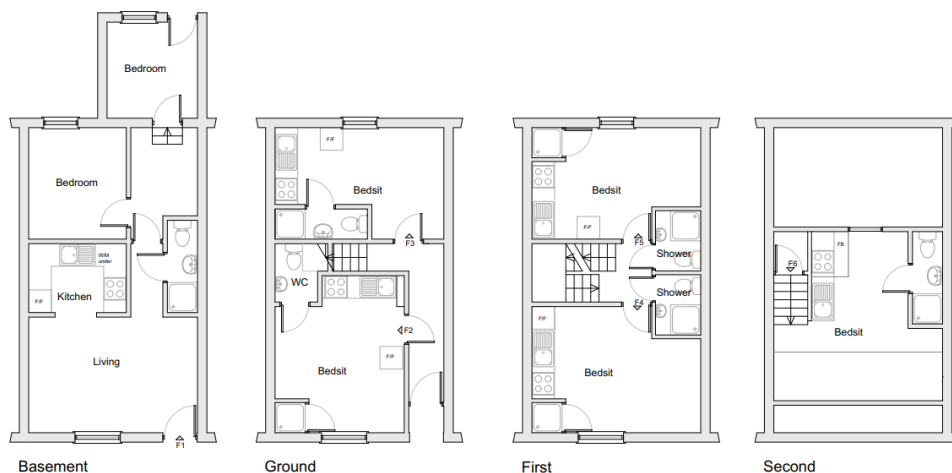
Target Decision date: 19/05/2025

Case Officer: Sian Hickey

1. SITE DESCRIPTION

Site visit date: 3rd April 2025

The application site is a two storey terraced building with a basement below and habitable space in the roof with a rear facing dormer. The surrounding area is a mix of commercial and residential. The application site is not listed nor within a conservation area.



Basement – 1 x 2-bedroom flat (flat 1)

Ground floor – 2 x bedsits (flats 2 & 3)

First floor – 2 x bedsits (flats 3 & 4)

Second floor – 1 x bedsit (flat 5)

2. PROPOSAL AND SUPPORTING INFORMATION

Applications for a Lawful Development Certificate for existing use under section 191 of the Town and Country Planning Act 1990. A certificate is sought to confirm that the existing use as six self-contained flats (current Use Class C3) based on evidence that the use has been in existence for at least 4 years continuously before the application was submitted.

To comply with section 191(5) or 192(3) of the Act the applicant needs to submit evidence to substantiate the claim for the established existing use.

The submission is for a Certificate of Lawfulness for the conversion of a C3 dwelling house into 6 flats.

The submitted application form identifies that the use commenced on 13th March 2009.

Plans and other information considered:

As received 24th March 2025:

- Application form
- Location Plan
- Drawing No. PL-EX.01 – Existing Floor Plans
- Variety of Tenancy Agreements for all flats
- Variety of Deposit Protection Certificates for all flats
- Energy performance certificates for all flats
- Notice given email for ground floor rear flat
- Confirmation of notice for first floor rear flat
- Closing inventory for first floor rear flat
- Electrical installation condition report

3. RELEVANT PLANNING HISTORY

None

4. CONSULTATIONS

Planning Enforcement:

The Planning Enforcement team have confirmed that they have no records.

Electoral Registration:

The Electoral Registration team have confirmed that there have been up to 7 persons registered during the qualifying period.

Council Tax:

The Council Tax team have confirmed that they only hold two current Council Tax bands for this property, these are for Basement flat which has been banded since 07.05.2009 & the rest of the house, which has been banded since at least 01.04.1997.

Legal:

The Legal team have confirmed that they have no concerns with the recommendation that a CLE should be granted.

5. 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 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.

Section 191 of the Town and Country Planning Act 1990 is the relevant section dealing with issues for Certificates of Lawful Existing Use or Development. This section provides the mechanism for any person to ascertain whether an existing use or development would be lawful, which is by the submission of an application. Section 191(2) states that the use will be lawful if no enforcement action could be taken in respect of the use and that the use or development does not constitute a contravention of any of the requirements of an Enforcement Notice then in force. If there is a Notice in force, then the time period for the Certificate cannot run in relation to that particular breach.

Section 191(4) provides that if the LPA is satisfied that the existing use or development is lawful, then a Certificate must be granted. The burden of proof to prove that this use has existed for 4 years rests with the applicant and the test is on the balance of probabilities. Additionally, as a local authority we are advised that if we have no evidence to the contrary and the applicant's evidence is sufficiently clear and unambiguous then the certificate should be granted. Section 191(4) further provides that the authority can grant such certificate as described in the application or such description as modified or substituted by us.

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 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".

6. APPRAISAL

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of 542 OXFORD ROAD, READING, RG30 1EG, as six self-contained flats, began more than 4 years before the date of this application of 24th March 2025 and has been in continuous use as six flats for the relevant time period which is **24/03/2021-24/03/2025**. The application form states that the use of all flats began 13th March 2009.

With regard to the internal consultee responses the Electoral Registration team has confirmed that there have been up to seven persons registered during the qualifying period.

The Planning Enforcement Team has confirmed that there is no enforcement history at this address.

Council Tax has the house still banded as one house and one basement flat.

Turning to the evidence submitted by the applicant, i.e. tenancy agreements, deposit protection certificates, confirmation of notice given, closing inventories, energy performance certificates, these support the claim that the property has been in use as six self-contained flats (five bedsits and one 2-bed flat), for at least four years, prior to the application being submitted.

The site visit carried out by the planning officer on 3rd April 2025 provided good confirmation of the accuracy of the floor plans, which further supports the claim. However, not all rooms could be accessed on this date as some tenants weren't in to allow access.

In the absence of evidence to the contrary, on the balance of probabilities, it can be confirmed that 542 Oxford Road has operated as six self-contained flats (Use Class C3 residential) for at least a period of 4 years and is, therefore, immune to enforcement action.

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 542 Oxford Road as six self-contained flats, comprising one 2 bed flat at basement level, two bedsits at ground floor, two bedsits at first floor, and on bedsit at second floor (C3 use), began more than 4 years ago and there is no evidence to suggest this use was lost or changed. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

7. CONCLUSION

In the absence of the information or evidence to contradict or make the applicant's version less probable, on balance, it is considered that the premises at 542 Oxford Road has been in continuous use as six flats for a period of at least 4 years. It is, therefore, considered that a Certificate of Lawfulness for the use of the building as six flats (C3) should be granted and the certificate will relate only to the subject land, shown edged red on the plan below.

8. RECOMMENDATION

GRANT Certificate



Location Plan (Not to scale)