

Delegated Application Report

Extended Target Date: 1 September 2025

Address: 48 Connaught Road

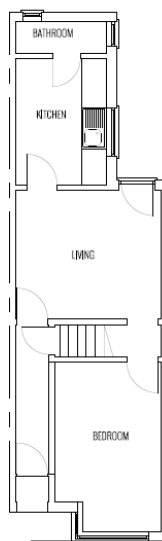
Application No: 250831/CLE

Proposal: Certificate of lawfulness for existing use as two, one bedroom flats

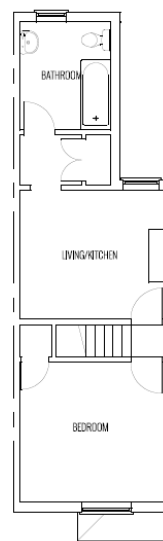
Case Officer: Nathalie Weekes

Introduction & Proposal

The application site is a two storey mid-terrace property. The surrounding area is predominantly residential. The proposal is for a certificate of lawfulness for the existing use of the ground and first floors as 2 one bedroom flats. The site is not within an Article 4 Direction area.



▲ GROUND FLOOR PLAN



▲ FIRST FLOOR PLAN

Floor plan

A site visit has been undertaken by the case officer to confirm the layout of the property.

The ground floor and first floor of the building is in the configuration shown on the floor plans as received. The front door provides entry into a communal hallway and that there is a separate locked entrance into the ground floor and first floor flats. Each flat is self-contained and has its own electric meters. There are however gaps in the evidence provided as only 2 tenancy documents have been submitted with no evidence of when the tenancies ended. No other documents have been provided.

The applicant asserts that the existing use of the property has been as separate ground floor and first floor one bedroom flats for more than 10 years, since 2014.

Relevant Planning History:

22/0300 Certificate of lawfulness for existing use as two flats - Withdrawn 09/01/2023

Relevant Planning Policy & Guidance:

Annexure 8 "Lawfulness and the Lawful Development Certificate" of Planning Circular 10/97 'Enforcing Planning Control: Legislative Provisions and Procedural Requirements' sets out the procedure for assessing applications for certificates of lawfulness:

Section 191(1) of the 1990 Act enables anyone to apply to the LPA for a decision on whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes.

The onus of proof in a LDC application is firmly on the applicant. Subsection (4) of section 191 provides that if, on an application under the section, the LPA are provided with information satisfying them of the lawfulness, at the time of the application, of the use, operations or other matter described in the application, or that description as modified by the LPA or a description substituted by them (see paragraph 8.35 below), they shall issue a certificate to that effect; and, in any other case, they shall refuse the application'.

Para 8.3 states, 'by virtue of section 191 (2), uses and operations are "lawful" if no enforcement action may be taken against them **and** they are not in contravention of any enforcement notice which is in force. And, by virtue of section 191(3), *a failure to comply with any condition or limitation subject to which planning permission has been granted is "lawful" if the time for taking enforcement action in respect of the failure has expired and it does not constitute a contravention of any enforcement notice or breach of condition notice which is in force.*'

Consultation Responses:

RBC Planning Enforcement - Two enforcement investigations have been undertaken for 48 Connaught Road. The first in 2008 (08/00051) was regarding the unauthorised conversion of the property into two self-contained flats. This case was closed in 2009 once work to convert the property back to a single dwellinghouse was completed and a compliance check undertaken.

The second enforcement investigation was in 2010 (10/00265) and was also to do with the unauthorised conversion of the property to two self-contained flats. This case was closed on 03/10/2011 after no breach was established (see attached Site Investigation Sheet dated 14/09/2011). Following a complaint received on 14 July 2010, the enforcement Site Investigation Sheet states,

'The property has been subject to a previous enforcement case (08/00051/COU - see Flag A) for the same issue. This case was closed when the owner removed all the cooking facilities from the first floor kitchen making it into a utility room (washing machine and tumble dryer) and removed the door which separated the two properties. The tenant from downstairs also took over the entire property on one AST agreement.

No form of sub-division was noted between the ground and the first floor during and internal inspection. However, the utility room on the first floor can now function as a kitchen as it has a microwave (but no oven) and a fridge. Further to this, food was observed being stored in the area.

A PCN was issued to the owner to clarify the use of the property (see Flag C). He claims that the property has not been converted as the tenants share the house as a whole. He also claims that the property is still being rented to Fatou Sima who took over the entire property on a single AST agreement in October 2009 (a copy of which he provided during the site meeting - see Flag D). Further to this he claims that the tenants are related.

Given the responses to the PCN and from information gathered during the site visit, no evidence has been uncovered to suggest that a change of use has occurred since the previous enforcement case was closed.

- RBC Council Tax Team -This property consists of two separate flats, both flats have been separately banded for CT purposes since 26.05.2018. Both flats have been separately let to various different tenants since date of banding.

Occupied dates verified by council tax

26.05.2018 - 01.10.2018

13.10.2018 - 12.08.2019

24.08.2019 - 01.03.2020

02.03.2020 - remains occupied to date

Flat 2: occupied dates only:

26.05.2018 - 01.12.2018

21.12.2018 - 21.06.2020

27.06.2020 - 27.03.2021

04.04.2021 - remains occupied to date

- RBC Environmental Health team confirmed that there are no records in relation to the property being used as 2 flats.
- RBC Electoral Registration Team - Number of registered electors at each residential property:

	Flat 1 48 Connaught Road	Flat 2 48 Connaught Road	48 Connaught Road
2025	0	0	
2024	0	0	
2023	0	0	
2022	0	0	
2021	0	0	
2020	N/A	N/A	0
2019	N/A	N/A	2
2018	N/A	N/A	0
2017	N/A	N/A	0
2016	N/A	N/A	0

- Legal team - There is no contradictory evidence, in this instance the RBC legal team agree with the case officer recommendation for approval.

Submitted Evidence

The applicant supplied the following information:

Tenancy Start Date	Tenancy End Date	Tenant(s)	Agent	Notes and supporting Document	Gap/time period vacant if any
01/01/2014	6mths initial, periodic thereafter. No end of tenancy evidence provided	1 - the same tenant as submitted for the previous CLE application	N	Assured Shorthold tenancy agreement	Signatures are not dated. No other tenancy agreements provided.

First floor flat

Tenancy Start Date	Tenancy End Date	Tenant(s)	Agent	Notes and supporting Document	Gap/time period vacant if any
01/02/2014	6mths initial, periodic thereafter. No end of tenancy evidence provided	1 - the same tenant as submitted for the previous CLE application	N	Assured shorthold tenancy agreement.	Signatures are not dated. No other tenancy agreements provided.

Evidence to verify application for a lawful development certificate for a dwellinghouse to be used as two separate flats.

The application form stated for the last CLE that the use was begun on 21/10/2010. The current CLE states the original dwelling was converted into 2 flats in 2014. It does not state when property was purchased and no title deeds have been submitted to confirm the applicants are the property owners. Only 2 tenancy agreements in support of this application have been submitted.

Location plan

Planning statement

Ground floor tenancy agreement

First floor tenancy agreement

Ground floor plan

First floor plan

As received 5 June 2025

Assessment:

In order to grant a Certificate of Lawfulness for existing use of the ground and first floors of 48 Connaught Road as a two 'flats', sufficient unambiguous and precise evidence must be supplied to confirm that the property has been in this use continuously for a period of 4 years from the date the application was made valid. The relevant time period is therefore 5 June 2021 to 5 June 2025. The relevant development was completed before 25 April 2024.

The application form submitted by the applicant states that the existing use of the property has been as separate ground floor and first floor flats for over 4 years, since 2014. This application is supported by one tenancy agreement for each flat and photos for both properties. No tenancy end dates or evidence of ongoing occupation was provided. There are gaps in use between the dates provided in evidence submitted.

Both properties are metered separately for electricity and photos of the meters have been provided. No installation date has been submitted.

The legal definition of self-contained unit is defined as "since 2001 a dwelling is defined (in line with the 2001 Census definition) as a self-contained unit of accommodation. Self-containment is where all the rooms (including kitchen, bathroom and toilet) in a household's accommodation are behind a single door which only that household can use."

The applicant has confirmed that entry is from the ground floor and although the entry to the house is via the front door, that inside there are two self-contained units, comprising a Ground floor and First floor flat; both of which have their own set of keys and entry points. Each flat has its own internal access door and is self-contained, including a kitchen, bathroom and toilet.

The case officer considers that on balance, based on the evidence submitted, and the RBC council tax team confirming that payments have been made since 2018, on this occasion following the earlier CLE submission in 2022 that there is sufficient evidence to justify subdivided use as 2 flats, although there appears to be discrepancy in the signatures on forms provided for the current application when viewed against documents submitted in the name of the same tenants for the previous CLE 2022.

"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 is reminded that the information has been reviewed at face value and that all evidence submitted should be accurate and genuine.

The law on applications for existing use certificates is clear and in relation to the submitted application it is incumbent on the applicant to prove, on the balance of probabilities, that the property had an existing lawful use as 2 flats for the relevant time as noted above. The applicant's evidence is sufficiently precise and unambiguous in this instance taking into consideration the planning history of the site, to justify the grant of a certificate on the balance of probability and consequently the application will be refused for the reason set out below.

In the absence of information or evidence to contradict or make the applicant's version less probable, on balance, it is considered that the property known as 48 Connaught Road has operated as a two one bedroom separate flats for a period exceeding 4 years and is therefore

immune to enforcement action. It is therefore considered a Certificate of Lawfulness for the use of the building as a flat, should be granted.

Recommendation
Approve certificate

Location map (not to scale)

48 Connaught Road, Reading, RG30 2UP

