

DELEGATED APPLICATION REPORT

Ward: Katesgrove Ward

App Ref: PL/25/1034 Lawful development: Existing use

Address: 138 BASINGSTOKE ROAD, READING, RG2 0ET

Proposal: Certificate of Lawfulness for existing use as 6 self-contained dwellinghouses (ground floor front flat; ground floor rear flat; first floor front flat; first floor rear flat; top flat; annex flat).

Applicant: Noble & Jones Property Management

Received date: 21/07/2025 Valid from: 24/07/2025

Target Decision date: 18/09/2025

Case Officer: Jonathan Markwell

1. SITE DESCRIPTION

Site visit date: 25th July 2025 to erect the site notice & 05/08/2025 to view the interior of the buildings.

The application site is a two-storey mid-terrace property located on the west side of Basingstoke Road, close to the junction with Elgar Road South (to the south). There are existing projections into the front and rear roofslopes, creating space for accommodation at ground, first and second floor level. There is a single storey annexe within the rear amenity space. It comprises, as observed during the site visit, the following:

- Ground floor – 2 x 1-bedroom self-contained flats (Flats 1 – ground floor front & 2 – ground floor rear)
- First floor – 1 x 1-bedroom self-contained flat (Flats 4 – first floor front) and 1 x 2-bedroom maisonette, with both bedrooms at second floor level (Flat 3 – first floor rear)
- Second floor – 1 x studio self-contained flat (Flat 5 – top flat)
- Annexe building within rear amenity space – 1 x studio self-contained garden flat (referenced as an Annex by the applicant)



Left: Site photograph 25/07/2025 Right: Site Location Plan submitted by the applicant.

The application site is not listed, nor in a conservation area. The proposal site is, however, located within an Article 4 area, restricting the change of use from residential (Use Class C3) to small HMO (Use Class C4). The Article 4 Direction was introduced on 16/05/2012. The site is also within an Air Quality Management Area. Basingstoke Road is part of the classified highway network and opposite the site to

the east is part of the Basingstoke Road North Local Centre. The surrounding area is therefore a mix of residential and commercial uses.

2. PROPOSAL AND SUPPORTING INFORMATION

An application is made 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 – 2 x studio units, 3 x 1 bedroom flats and 1 x 2-bedroom maisonette (Use Class C3), as per the floor plan below, 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.



Floor plan submitted by the agent on 24/07/2025

The officer site visit on 05/08/2025 verified the accuracy of the plans specified above (the only change being that the Annex is shown above in a south (top) to north (bottom) orientation, whereas the other floors are north (top) to south (bottom)).



Officer site visit photographs on 05/08/2025 – interior photos of the annex flat in the rear amenity space

The application form states that the grounds upon which the certificate is being sought are as follows:

- *The building works (for instance, building or engineering works) were substantially completed more than four years before the date of this application.*
- *The change of use to use as a single dwelling house began more than four years before the date of this application.*

The application form states that the use or activity begun, or the building works substantially completed, on 09/08/2010 and that there has been no interruption since that date, nor has there been any change of use since the start of the use.

Plans and other information considered:

Flat specific information: (Officer note – all names have been shortened to initials only)

Ground Floor Front Flat:

- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road GFF – check out date 29/02/2020, dated 29/02/2020 (6 pages).
- Email chain (3 pages) stating from Admin McCarthy Properties 'RE: Confirmation of Notice to vacate' dated 02/01/2020
- Email from AG '2 month notice period for leaving property flat A 138, RG2 0ET' dated 30/12/2019
- McCarthy Properties Tenancy Agreement for AG dated 30/10/2017, related to Ground Floor Front, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 30/10/2017 to 29/04/2018 (14 page document).

- Email from Deposit Protection Service 'DPS Deposit Protection Confirmation – GROUND FLOOR FRONT, RG2 0ET' – Tenancy Deposit Certificate for AG dated 30/10/2017
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road GFF – check out date 01/05/2021, dated 01/05/2021 (6 pages).
- Letter from McCarthy Properties, undated, to C.
- Email from CL to HC 'Notice to quit' dated 23/03/2021.
- McCarthy Properties Tenancy Agreement for CL dated 20/03/2020, related to Ground Floor Front, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 20/03/2020 to 20/08/2020 (20 page document).
- McCarthy Properties Tenancy Agreement for DSM dated 12/05/2021, related to Ground Floor Front, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 12/05/2021 to 11/11/2021 (20 page document).
- Deposit Protection Certificate by my deposits for DM, Ground Floor Front, 138 Basingstoke Road, Reading, RG2 0ET dated 12/05/2021

Ground Floor Rear Flat:

- Landlord Gas Safety Record Cert. No. 3232 by Apollo XL Heating Services in relation to Ground Floor Rear, 138 Basingstoke Road, Reading, RG2 0ET, dated 24/04/2025.
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road GFR – check out date 12/12/2019, dated 12/12/2019 (6 pages).
- McCarthy Properties Tenancy Agreement for LJH & CWL dated 05/08/2024, related to Ground Floor Rear, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 05/08/2024 to 04/02/2025 (26 page document).
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road GFR, dated 26/03/2022 (6 pages).
- Email from HC to Counciltaxreply@reading.gov.uk 'Ground Floor Rear 138 Basingstoke Road RG2 0ET' dated 28/03/2022.
- Letter from McCarthy Properties Reading Limited, undated, to S.
- Email from SI 'Notice of leaving' dated 28/02/2022.
- McCarthy Properties Tenancy Agreement for SI dated 06/09/2016, related to Ground Floor Rear, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 06/09/2016 to 05/03/2017 (13 page document).
- McCarthy Properties Tenancy Agreement for JPB dated 05/04/2022, related to Ground Floor Rear, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 05/04/2022 to 04/10/2022 (18 page document).

First Floor Front Flat:

- McCarthy Properties Tenancy Agreement for JZ dated 20/02/2016, related to First Floor Front, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 20/02/2016 to 19/08/2016 (13 page document).
- Letter from McCarthy Properties Reading Limited to JZ 'RE: 138 First Floor Front Basingstoke Road, Reading, RG2 0ET'
- Certificate of tenancy deposit protection by DPS for JZ, First Floor Front, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, dated 20/02/2016.
- Landlord Gas Safety Record Cert. No. 2651 by Apollo XL Heating Services in relation to First Floor Front, 138 Basingstoke Road, Reading, RG2 0ET, dated 19/04/2024.

First Floor Rear Flat:

- Certificate of tenancy deposit protection by DPS for AS, First Floor Rear, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, dated 08/09/2020.
- McCarthy Properties Tenancy Agreement for Mr AS dated 27/02/2023, related to First Floor Rear, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 01/03/2023 to 28/02/2025 (19 page document).
- Landlord Gas Safety Record Cert. No. 3231 by Apollo XL Heating Services in relation to First Floor Rear, 138 Basingstoke Road, Reading, RG2 0ET, dated 24/04/2025.
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road FFR – check out date 14/07/2020, dated 14/07/2020 (6 pages).
- Email from JC 'F.A.O: HC. Re: 138 flat 3d Basingstoke Rd, RG2 0ET, Dated 12/05/2020.
- Deposit Protection Certificate by my deposits for JC, Flat 4, 138 Basingstoke Road, Reading, RG2 0ET dated 23/12/2019 (2 pages)
- McCarthy Properties Tenancy Agreement for JC dated 20/12/2019, related to First Floor Rear (Flat 4), 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 20/12/2019 to 19/06/2020 (20 page document).
- McCarthy Properties Tenancy Agreement for KB and IB dated 28/01/2015, related to First Floor Rear, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 28/01/2015 to 27/07/2015 (14 page document).
- Prescribed Information relating to tenancy deposits* by DPS for KB and IB – no specified address, dated 28/01/2015 (3 pages)
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road FFR – check out date 12/12/2019, dated 12/12/2019 (6 pages).
- Invoice #20 from DN to McCarthy Properties for First Floor Rear, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET dated 17/12/2019.
- Emails between McCarthy Properties & KB 'RE: Confirmation of Notice' dated 18/10/2019.
- Email from Admin McCarthy Properties to Counciltaxreply@reading.gov.uk 'First floor Rear 136 Basingstoke Road' dated 12/12/2019.

Top Flat:

- McCarthy Properties Tenancy Agreement for HO dated 04/04/2023, related to Top Flat, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 03/04/2023 to 02/10/2023 (19 page document).
- McCarthy Properties Tenancy Agreement for HO dated 17/07/2015, related to Top Flat, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 03/08/2015 to 02/02/2016 (19 page document).
- Passport of HO dated 04/01/2006
- McCarthy Properties Tenant Front Sheet, dated 10/08/2015 (2 pages)
- Email from Deposit Protection Service 'DPS Deposit Protection Confirmation – 138 BASINGSTOKE ROAD, RG2 0ET' – Tenancy Deposit Certificate for HO dated 15/07/2015
- Prescribed Information relating to tenancy deposits* by DPS for HO & relating to Top Flat, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, dated 03/08/2015 (4 pages)
- Certificate of tenancy deposit protection by DPS for HO, Top Flat, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, dated 03/08/2015.

Annex Flat:

- Assured Shorthold Tenancy Agreement between Nobel and Jones_Properties LTD (Landlord) and SFB (Tenant) dated 01/03/2025, related to Flat 5/The Annex, 138 Basingstoke Road, Reading, RG2 0ET, for the period of 01/03/2025 to 31/08/2025 (5 page document).
- Electrical Installation Condition Report (6 pages) Certificate No. MAE 9420 – Safety Check carried out on 17/04/2023, referencing the estimated age of the wiring system being 15 years

- Landlord Gas Safety Record Cert. No. 2689 by Apollo XL Heating Services in relation to Annex, 138 Basingstoke Road, Reading, RG2 0ET, dated 03/05/2024.
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road Annex – check out date 20/03/2023, undated (6 pages).
- Email from JL 'Notice The Annex 138 basingstoke road' dated 21/02/2023
- Letter from McCarthy Properties Reading Limited, undated, to J
- Letter from The Deposit Protection Service Ref 31564 dated 17/08/2010 relating to a deposit being received from JL on 09/08/2010 and a tenancy starting on 09/08/2010 (for 6 months) in relation to Annex, 138 Basingstoke Road, Reading, RG2 0ET
- McCarthy Properties Tenancy Agreement for JL dated 09/08/2010, related to Annex, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 09/08/2010 to 08/02/2011 (14 page document).
- McCarthy Properties Tenancy Agreement for JPB undated, related to Annex, 138 Basingstoke Road, Berkshire, RG2 0ET, for the period of 24/04/2023 to 23/10/2023 (18 page document).
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road Annex – check out date 08/01/2024, dated 08/01/2024 (6 pages).
- Email from HC to Counciltaxreply@reading.gov.uk 'Annex 138 Basingstoke Road RG1 0ET' dated 30/04/2024
- Letter from McCarthy Properties Reading Limited, undated, to J.
- Email from JB to HC, untitled, dated 08/12/2023.
- McCarthy Properties Tenancy Agreement for JL dated 09/06/2013, related to Annex, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 09/06/2013 to 08/12/2013 (14 page document).
- The Deposit Protection Service letter 'Prescribed Information Relating to Tenancy Deposits*' for JL in relation to 'The Annex 138 Basingstoke Road, Reading, Berkshire, RG2 0ET', dated 09/06/2013 (10 pages).

Other information:

- Application form
- Location Plan by Planning Portal dated 21/07/2025
- 138 Basingstoke Road (Summary of information provided)
- Electrical Installation Condition Report (11 pages) Certificate No. MAE 9488 – Safety Check carried out on 28/08/2024, referencing the last inspection being carried out on 11/09/2019 and referencing the Top Flat, First Floor Front, First Floor Rear, Ground Floor Front and Ground Floor Rear

As all received on 21/07/2025

A document entitled 'SiteLocation (1).geojson' was also received on 21/07/2025. This was unopenable, owing to the type of file. This was queried with the agent on 24/07/2025, but no response on this matter was received. Hence, it was not possible to take into account that document.

- PL-EX.01 Rev 01 – 138 Basingstoke Road Plans

As received 24/07/2025

3. RELEVANT PLANNING HISTORY

PL/08/1358 (Reference at the time was 08/01319/CLE) - Certificate of lawfulness for existing use of property as 5 flats. Granted 22/12/2008.



DEC NOT



1/4

TOWN AND COUNTRY PLANNING ACT 1990: SECTIONS 191 and 192 (as amended by section 10 of the Planning and Compensation Act 1991)
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE)
ORDER 1995: ARTICLE 24

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

To: Mr Richard McCarthy
 C/O Chris Keen
 The Keen Partnership
 Edinburgh Road
 Reading
 RG30 2UA

Application No: 08/01319/CLE

Applicant: Mr Richard McCarthy

The Reading Borough Council hereby certify that on 27th October 2008 the use/operations described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate, and edged black on the attached plan would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

1. Sufficient evidence has been provided to demonstrate that, on the balance of probability, the property has functioned as five separate dwellings, as shown on drawing number 7777-06-138b-01 "Existing plans" received by Reading Borough Council on 01 October 2008, for a period in excess of 4 years.

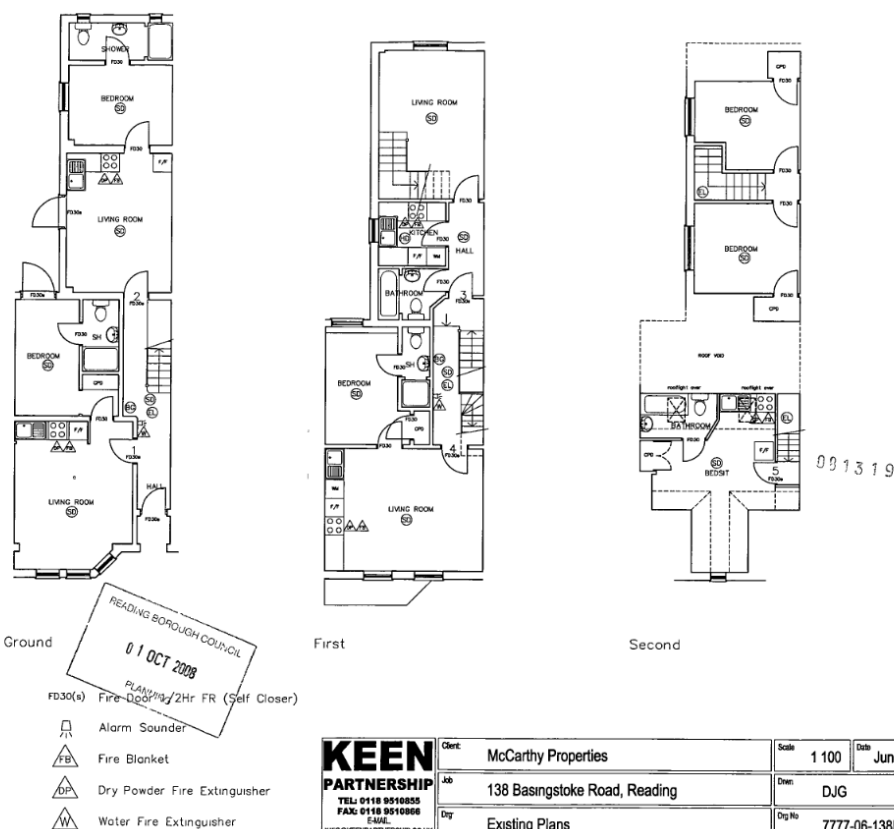
First Schedule: Certificate of lawfulness for existing use of property as 5 flats

Second Schedule: 138 Basingstoke Road Reading Berkshire RG2 0ET

Date: 22nd December 2008

Chris Ball

Head of Planning & Building Control





081319

THE KEEN PARTNERSHIP		Client: McCarthy Properties	Status: Planning
The Courtyard, Edinburgh Road, Reading, RG30 2UA Tel: 0118 9510 853 Fax: 0118 9510 866 Email: info@keenpartnership.co.uk		Job Title: 138 Basingstoke Road Reading	Date Drawn: 10 10 08 Drawn By: MM Scale: 1:1250@A4
Drawing Title: Location Plan		Job No: 7777	Org No: 06

Decision notice and plans associated with application PL/08/1358.

4. CONSULTATIONS

Planning Enforcement: Planning Enforcement has confirmed that there are no records of any Planning Enforcement cases at the site.

Electoral Registration: The number of electors registered from 2016-2025 is as follows:

	Flat 1	Flat 2	Flat 3	Flat 4	Flat 5
2025	1	0	1	2	1
2024	1	0	1	2	1
2023	1	1	1	2	1
2022	0	1	1	2	1
2021	0	1	1	2	1
2020	1	1	1	2	1
2019	1	1	1	0	1
2018	1	1	2	0	1
2017	1	1	2	0	1
2016	1	0	0	0	0

There is only record of there being five flats at this address and no record of there being six flats.

In subsequent discussions with Electoral Services, it was established that the names of tenants on tenancy agreements (as submitted with the application) aligned with the names on the electoral roll for the following flats in the following years:

Flat 1 – 2018, 2019, 2023, 2024, 2025
 Flat 2 – 2017, 2018, 2019, 2020, 2021, 2022
 Flat 3 – 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025
 Flat 4 – 2016, 2022, 2023, 2024, 2025
 Flat 5 – 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025
 Flat 6 – no records.

Council Tax: Council Tax confirmed that they do have 6 dwellings separately banded for Council Tax purposes at this property. The following 5 flats are all separately banded for CT purposes since at least 01.04.1997 and all separately let out to tenants:

FLAT A GROUND FLOOR FRONT

FLAT B GROUND FLOOR REAR

FLAT C FIRST FLOOR FRONT

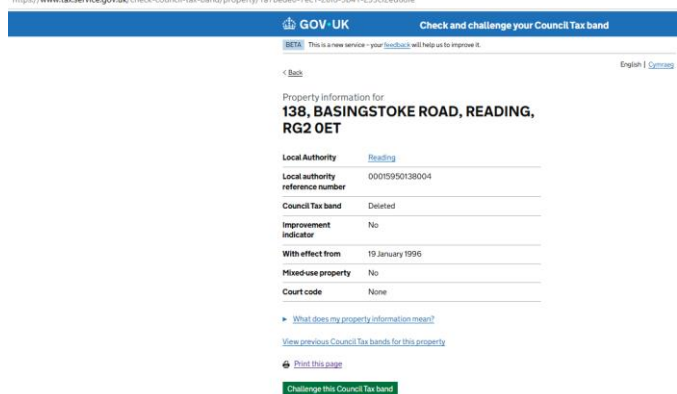
FLAT D FIRST FLOOR REAR

FLAT E TOP FLAT

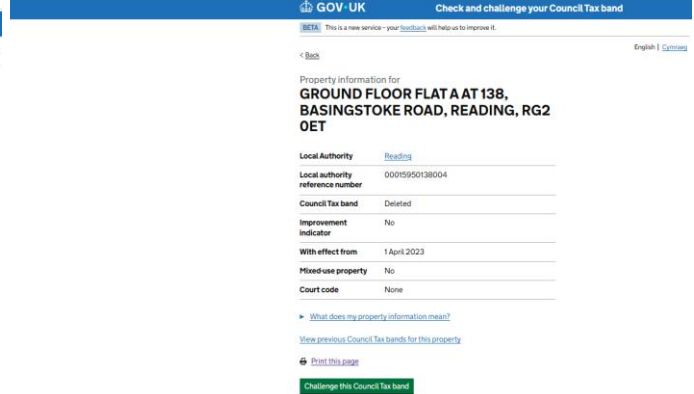
The GARDEN FLAT AT 138 has been banded since 01.04.2023; in occupation by a tenant shortly after banding (25.04.2023).

Case Officer note: The above is largely consistent with information accessed via the Government's Council Tax band checking website (accessed by the case officer on 05/08/2025, screenshots below), where it would appear that a single dwellinghouse ceased in 1996, with 4 flats banded from that point on, the ground floor flat A being deleted and re-inserted on 1st April 2023 (date of original listing not specified) and the garden flat being newly registered from 1st April 2023:

<https://www.tax.service.gov.uk/check-council-tax-band/property/1a7bede0-7ec1-20b6-5b41-235c72ed68fe>



<https://www.tax.service.gov.uk/check-council-tax-band/property/a633e734-8d42-e833-d2e2-d31c39fb212d>



<https://www.tax.service.gov.uk/check-council-tax-band/property/a603b4c3-b58d-fce4-6f99-26bdf3b8a5a>

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Property information for
GROUND FLOOR FLAT A AT 138, BASINGSTOKE ROAD, READING, RG2 OET

Local Authority	Reading
Local authority reference number	00015950138004
Council Tax band	A
Improvement indicator	No
With effect from	1 April 2023
Mixed-use property	No
Court code	None

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<https://www.tax.service.gov.uk/check-council-tax-band/property/bf85a169-7439-283b-5d05-4813116e7df>

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Property information for
GROUND FLOOR FLAT B AT 138, BASINGSTOKE ROAD, READING, RG2 OET

Local Authority	Reading
Local authority reference number	00015950138019
Council Tax band	A
Improvement indicator	No
With effect from	19 January 1996
Mixed-use property	No
Court code	None

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<https://www.tax.service.gov.uk/check-council-tax-band/property/4e770000-75e0-e0f3-671d-6a5ddbf9b855>

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Property information for
FIRST FLOOR FLAT C AT 138, BASINGSTOKE ROAD, READING, RG2 OET

Local Authority	Reading
Local authority reference number	00015950138023
Council Tax band	A
Improvement indicator	No
With effect from	19 January 1996
Mixed-use property	No
Court code	None

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<https://www.tax.service.gov.uk/check-council-tax-band/property/b6998131-a7b1-b0a7-c9cf-b2d25138bb3>

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Property information for
FIRST FLOOR FLAT D AT 138, BASINGSTOKE ROAD, READING, RG2 OET

Local Authority	Reading
Local authority reference number	00015950138038
Council Tax band	A
Improvement indicator	No
With effect from	19 January 1996
Mixed-use property	No
Court code	None

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<https://www.tax.service.gov.uk/check-council-tax-band/property/37050790-89cd-a931-6f78-df2b54abc146>

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Property information for
SECOND FLOOR FLAT E AT 138, BASINGSTOKE ROAD, READING, RG2 OET

Local Authority	Reading
Local authority reference number	00015950138042
Council Tax band	A
Improvement indicator	No
With effect from	19 January 1996
Mixed-use property	No
Court code	None

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<https://www.tax.service.gov.uk/check-council-tax-band/property/288f547e-3cdd-d9db-f9d0-00bd4f2ceb14>

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Property information for
GARDEN FLAT AT 138, BASINGSTOKE ROAD, READING, RG2 OET

Local Authority	Reading
Local authority reference number	0001595013800A
Council Tax band	A
Improvement indicator	No
With effect from	1 April 2023
Mixed-use property	No
Court code	None

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Environmental Protection: Has confirmed to have no comments on the application.

Private Sector Housing: Initial response: Our records show a couple of noise complaints from last year (August 2024) and we still have an ongoing case that was a referral from the Fire Service informing that the building was not well managed and the means of escape were obstructed. A visit was carried out on the 5th November 2024 and we confirmed there are 5 self-contained flats in a converted house with a communal boiler. There were some concerns about the fire alarm system, means of escape and evacuation policy which the Fire Service was looking and repairs were requested to the landlord. We are still liaising with them to ensure these repairs are completed. I believe they have changed managers for the communal areas. In addition, a further complaint was received from Flat 5 (attic room) and was resolved informally.

Subsequent correspondence between the case officer and Private Sector Housing: established that photographs were taken of the rear garden showing a separate garden annex on 29/05/2024.



Legal Services: Having looked at the evidence supplied, I find that there has been a change of use at 138 Basingstoke Road to six self contained flats, the burden of proof lies with the applicant, who must show on the balance of probabilities that the use has existed continuously for at least 4 years.

The applicant has submitted evidence to support their application which covers the period of 4 years. Whilst the evidence submitted for flat 6 covering the four year period is limited, I agree with your analysis in the report that the email from JL providing notice that JL is leaving the flat ties in with the deposit letters and tenancy agreement from 2010 and 2013 and this covers a period of more than 10 years.

Therefore, we consider the certificate can be safely granted as the evidence is unambiguous and we do not hold any contradictory evidence to state otherwise.

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 138 Basingstoke Road, as six self-contained residential units, began more than 4 years before the date of this application of 21st July 2025 and has been in continuous use as six self-contained for the relevant time period which is **21st July 2021- 21st July 2025**. The application form and accompanying information state that the use of all residential units began on 9th August 2010.

With regard to the internal consultee responses the **Electoral Registration** team only has record of five flats at the site (flats 1-5 only), with varying number of occupants at different units in the past decade. In separate subsequent correspondence with the case officer, the named occupiers on tenancy agreement information submitted by the applicant was verified in a number of instances in the past decade in respect of these five flats, including during the qualifying 4 year period – as shown below, with the only gaps (where electors were registered) being: Flat 2 – 2023; Flat 4 – 2021; Flat 6 – all years. This is set out in the table below. Naturally, there is no requirement to be registered on the electoral roll, but the instances where names do align with separate tenancy agreement evidence submitted by the applicant is seen to be positive evidence in favour of collaborating the viewpoint of the applicant in support of the proposal.

Years during the qualifying period where the names on the electoral roll aligns with the tenancy agreement information submitted

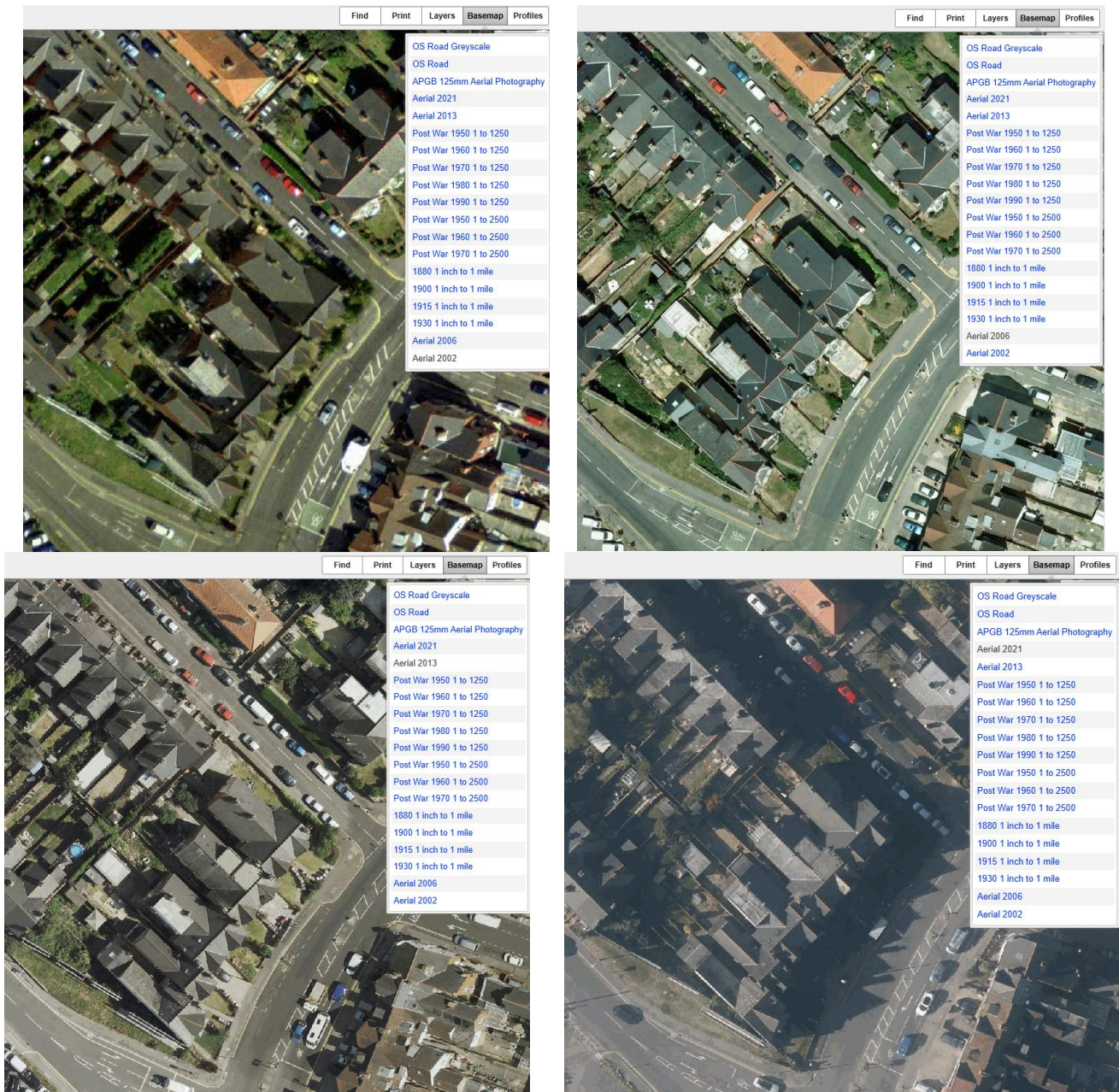
	Flat 1	Flat 2	Flat 3	Flat 4	Flat 5	Flat 6
2021	No electors registered	Yes	Yes	No	Yes	No electoral roll information held for Flat 6.
2022	No electors registered	Yes	Yes	Yes	Yes	
2023	Yes	No	Yes	Yes	Yes	
2024	Yes	No electors registered	Yes	Yes	Yes	
2025	Yes	No electors registered	Yes	Yes	Yes	

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

Council Tax has the address registered as 5 flats are all separately banded for Council Tax purposes since at least 01.04.1997 (two at ground floor, two at first floor and one top flat). A sixth unit, the garden flat, has been registered for Council Tax purposes since 01.04.2023. Accordingly, five of the six units have been registered for Council Tax throughout the qualifying period, with the garden unit being registered for over 2 ¼ years of the 4 year qualifying period.

The **Environmental Protection** team has no comments on the application. The **Private Sector Housing team in Environmental Health** has an on-going investigation at the site, with correspondence establishing that a photograph was taken of the rear garden showing a separate garden annex on 29/05/2024.

In relation to separate information held by the Local Planning Authority, historic aerial maps have established that a structure of the same size/location as the garden annex at the site has existed at the site since at least 2006, with further photographs from 2013 and 2021. The structure is not present on the aerial map from 2002, suggesting the structure was erected at some point between 2002 and 2006. Obviously, the aerial photographs provide no basis for establishing a residential use within the structure.



Aerial maps from the LPA's internal I-Share GIS Mapping facility from 2002, 2006, 2013 and 2021.

The site visit undertaken by the case officer on 05/08/2025 confirmed the accuracy of the floor plan submitted, as shown at section 2 above. In addition, during the site visit a particular focus was made on the annex unit. In conjunction with the supporting evidence submitted, the following matters were confirmed:

- There was still a circuit breaker in the lounge, consistent with the Electrical Installation Condition Report dated 17/04/2023.
- There was still a smoke alarm in the lounge, consistent with the Electrical Installation Condition Report dated 17/04/2023.
- The manufacturer of the hob was still Lamona, consistent with the Landlord Gas Safety Record dated 03/05/2024.
- The manufacturer of the boiler was still Heatline, consistent with the Landlord Gas Safety Record dated 03/05/2024.

The planning history at the site confirms that a certificate of lawfulness for existing use of the property as 5 flats was granted on 22/12/2008. The approved plan (see section 3 above) aligns with the floor plan submitted with this application in respect of the 5 flats within the main building at the site (two flats at ground floor level, a flat at first floor level (front), a maisonette at first and second floor level (rear) and a separate flat in the roofspace).

There is no specific planning history relating to the garden flat / annex in the rear amenity space of the site.

Turning to the evidence submitted by the applicant, this is summarised below (it is listed at section 2 above), including some analysis by the case officer too:

Ground Floor Front Flat (1): The only specific evidence for this unit submitted in the qualifying period is an Electrical Safety Check carried out on 28/08/2024 and a tenancy agreement covering the period 12/05/2021 – 11/11/2021, which partly covers the start of the qualifying period (from 21/07/2021). Based on the officer site visit, it was evident that this tenant was still occupying the flat (collaborated with electoral roll information held by the Council), which helps explain why a further tenancy agreement is not provided. A series of information is provided prior to the qualifying period, including tenancy agreements in 2017 and 2020, deposit certificates from 2017 and 2021, and various email correspondence associated with tenants leaving the flat in 2019, 2020 and 2021.

Ground Floor Rear Flat (2): The evidence submitted during the qualifying period comprises tenancy agreements for the periods of 05/04/2022 to 04/10/2022 and 05/08/2024 to 04/02/2025, a closing inventory dated 26/03/2022, correspondence regarding leaving arrangements in 2022, an Electrical Safety Check carried out on 28/08/2024 and a Landlord Gas Safety Record Certificate dated 24/04/2025. Based on the officer site visit, it was evident that the tenants from the 2024 tenancy agreement were still occupying the flat, which helps explain why a further tenancy agreement is not provided for the remainder of the qualifying period (05/02/2025 to 21/07/2025). A series of information is provided prior to the qualifying period, including a tenancy agreement from 2016 and a closing inventory from 2019.

First Floor Front Flat (3): The only specific evidence for this unit submitted in the qualifying period is an Electrical Safety Check carried out on 28/08/2024 and a Landlord Gas Safety Record Certificate dated 19/04/2024. Information is provided prior to the qualifying period, including a tenancy agreement from 2016 and a deposit certificate from 2016. In light of the electoral roll information held by the Council indicating the same occupier has been at the flat since 2016, this helps explain why no further tenancy agreement is provided.

First/Second Floor Rear Maisonette (4): The only specific evidence for this unit submitted in the qualifying period is an Electrical Safety Check carried out on 28/08/2024, a Landlord Gas Safety Record Certificate dated 24/04/2025 and a tenancy agreement covering the period 01/03/2023 – 28/02/2025. Based on the

officer site visit, it was evident that these tenants were still occupying the flat, which helps explain why a further tenancy agreement is not provided for the remainder of the qualifying period (01/03/2025 to 21/07/2025). A series of information is provided prior to the qualifying period, including tenancy agreements from 2015, 2019 and 2020, deposit certificates from 2015 and 2019, closing inventories from 2019 and 2020, leaving correspondence from 2019 and 2020 and an email from the letting agent to RBC Council Tax in 2019, all suggesting separate tenants during these times. A series of information is provided prior to the qualifying period, including a tenancy agreement in 2015, together with deposit and related information from 2015.

Top Flat (5): The only specific evidence for this unit submitted in the qualifying period is an Electrical Safety Check carried out on 28/08/2024 and a tenancy agreement covering the period of 03/04/2023 to 02/10/2023. Based on the officer site visit, it was evident that this tenant was still occupying the flat (collaborated with electoral roll information held by the Council), which helps explain why a further tenancy agreement is not provided. In light of the electoral roll information held by the Council indicating the same occupier has been at the flat since 2016 (also witnessed during the officer site visit), this helps explain why no further pre-qualifying period tenancy agreement is provided.

Annex Flat (6): A series of information has been submitted during the qualifying period, as follows (in date order):

- Email from JL 'Notice The Annex 138 basingstoke road' dated 21/02/2023
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road Annex – check out date 20/03/2023, undated (6 pages).
- Electrical Installation Condition Report (6 pages) Certificate No. MAE 9420 – Safety Check carried out on 17/04/2023, referencing the estimated age of the wiring system being 15 years and describing the premises as domestic in nature.
- McCarthy Properties Tenancy Agreement for JPB undated, related to Annex, 138 Basingstoke Road, Berkshire, RG2 0ET, for the period of 24/04/2023 to 23/10/2023 (18 page document).
- Email from JB to HC, untitled, dated 08/12/2023.
- McCarthy Properties Landlord Closing Inventory of fixtures, fittings & furnishings for 138 Basingstoke Road Annex – check out date 08/01/2024, dated 08/01/2024 (6 pages).
- Email from HC to Counciltaxreply@reading.gov.uk 'Annex 138 Basingstoke Road RG1 0ET' dated 30/04/2024
- Landlord Gas Safety Record Cert. No. 2689 by Apollo XL Heating Services in relation to Annex, 138 Basingstoke Road, Reading, RG2 0ET, dated 03/05/2024.
- Assured Shorthold Tenancy Agreement between Nobel and Jones Properties LTD (Landlord) and SFB (Tenant) dated 01/03/2025, related to Flat 5/The Annex, 138 Basingstoke Road, Reading, RG2 0ET, for the period of 01/03/2025 to 31/08/2025 (5 page document).

Information dated prior to the qualifying period

- Letter from The Deposit Protection Service Ref 31564 dated 17/08/2010 relating to a deposit being received from JL on 09/08/2010 and a tenancy starting on 09/08/2010 (for 6 months) in relation to Annex, 138 Basingstoke Road, Reading, RG2 0ET
- McCarthy Properties Tenancy Agreement for JL dated 09/08/2010, related to Annex, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 09/08/2010 to 08/02/2011 (14 page document).
- The Deposit Protection Service letter 'Prescribed Information Relating to Tenancy Deposits*' for JL in relation to 'The Annex 138 Basingstoke Road, Reading, Berkshire, RG2 0ET', dated 09/06/2013 (10 pages).
- McCarthy Properties Tenancy Agreement for JL dated 09/06/2013, related to Annex, 138 Basingstoke Road, Reading, Berkshire, RG2 0ET, for the period of 09/06/2013 to 08/12/2013 (14 page document).

Unspecified date information:

- Letter from McCarthy Properties Reading Limited, undated, to J.
- Letter from McCarthy Properties Reading Limited, undated, to J.

Accordingly, there is no specific information submitted in relation to the beginning of the qualifying period – 21st July 2021 – until an email from a tenant to the agent dated 21st February 2023 (so 19 months into the qualifying period) advising of a notice to vacate the annex at 138 Basingstoke Road – the email is reproduced below (Redacted to avoid names/email addresses being shown):

H C

From: [Redacted]
Sent: 21 February 2023 10:34
To: D M Info
Subject: Notice The Annex 138 basingstoke road

Dear MCcarthys,

Thank you for everything over the years, I have over the weekend exchanged and completed on a house.
There for I need to give you my 1 months notice as I move out and clean the annex.
If you can let me know what my final payment will be,

Many thanks

J L
21/02/2023

[Handwritten signature]

Reference to “everything over the years” ties in with the supporting information submitted prior to the qualifying period, such as tenancy agreements and deposit letters from both 2010 and 2013 for the same named tenant. On the balance of probabilities, whilst more information could certainly have been provided by the applicant, this evidence is considered sufficient to demonstrate the occupancy of “the annex” between 2010 and March 2023. Furthermore, the local planning authority have no evidence to the contrary and the applicant’s evidence is, on balance, sufficiently clear and unambiguous.

Beyond March 2023, a tenancy agreement from 24/04/2023 to 23/10/2023 is provided, followed by documentation indicating the tenant vacated the annex on 08/01/2024, with a new tenant occupying the annex from 05/02/2024:

H C

From: H C
Sent: 30 January 2024 10:46
To: Counciltaxreply@reading.gov.uk
Subject: Annex 138 Basingstoke Road RG1 0ET

To whom this may concern,

J B has vacated the property on Annex 138 Basingstoke Road RG1 0ET on 08/01/2024

S B will be moving into the property Annex 138 Basingstoke Road RG1 0ET on 05/02/2024

Please update your records accordingly.

There is some ambiguity at this point, given the only tenancy agreement for the named tenant is from 01/03/2025 – 31/08/2025 (until after the qualifying period of 21st July 2025), which is over a year after the letting agent advised RBC Council Tax of this tenant moving into the property. This is a significant gap in the qualifying period (05/02/2024 – 01/03/2025), calling into some question whether the evidence by the applicant is sufficiently clear and unambiguous in this regard. The applicant could have certainly submitted other/more evidence to assist in this regard. However, officers note that the letting agent changed from McCarthy Properties to Nobel and Jones Properties in that time and photographs from RBC Environmental Health (see section 4 above) indicate the presence of the annex unit on 29/05/2024. Furthermore, Council Tax has been recorded from the annex / garden flat since 01/04/2023. Whilst there is no electoral roll information, it is also acknowledging that the Local Planning Authority has no actual evidence to the

contrary. It is therefore considered that the evidence is in overall terms and on the balance of probabilities, sufficient to demonstrate the occupancy of “the annex” between the latter part of the qualifying period of 1st April 2023 to 21st July 2025.

Accordingly, in the absence of evidence to the contrary, on the balance of probabilities, it can be confirmed that 138 Basingstoke 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 138 Basingstoke Road as six self-contained flats, comprising:

- Ground floor – 2 x 1-bedroom self-contained flats (Flats 1 – ground floor front & 2 – ground floor rear)
- First floor – 1 x 1-bedroom self-contained flat (Flats 4 – first floor front) and 1 x 2-bedroom maisonette, with both bedrooms at second floor level (Flat 3 – first floor rear)
- Second floor – 1 x studio self-contained flat (Flat 5 – top flat)
- Annex building within rear amenity space – 1 x studio self-contained garden flat

This 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 138 Basingstoke 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 (Class 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