

DELEGATED APPLICATION REPORT

Ward: Park

App Ref: PL/25/0698 Lawful development: Existing use

Address: 28 Cumberland Road, Reading, RG1 3LB

Proposal: Certificate of Lawfulness for Existing use of the property as two self-contained flats within a four storey terraced house, comprising of studio flat (Use Class C3) in the basement, with a separate entrance and a six bedrooms flat in the upper three-storeys (Use Class C4) comprising of two bedrooms, kitchen and garden at ground floor (Room 1&2), two bedrooms, showers and toilets on the first floor (Room 3 & 4), two bedrooms on the second floor (Room 5&6).

Applicant: Mr Antonio Mariano

Received date: 12/05/2025

Extended Target Decision date: 13/10/2025

Case Officer: Nathalie Weekes

1. SITE DESCRIPTION

The application site comprises a mid-terrace 4-storey dwelling including self-contained basement studio flat on the eastern side of Cumberland Road. The immediate surrounding area is predominately residential, with a Sikh Temple in close proximity and an HMO neighbouring the property at 30 Cumberland Road. The application site is not listed nor in a conservation area. The property is not within an Article 4 area (HMOs).



2. PROPOSAL AND SUPPORTING INFORMATION

Certificate of Lawfulness for Existing use of the property as two self-contained flats within a four storey terraced house, comprising of studio flat (Use Class C3) in the basement, with a separate entrance and a six bedrooms flat in the upper three-storeys (Use Class C4) comprising of two bedrooms, kitchen and garden at ground floor (Room 1&2), two bedrooms, showers and toilets on the first floor (Room 3 & 4), two bedrooms on the second floor (Room 5&6).

3. RELEVANT PLANNING HISTORY

None

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'.

5. CONSULTATIONS

The following were consulted:

- RBC Private sector housing - Our records show that an HMO licence has been issued for the ground, first and second floors of the above property with no major issues at the time of licensing. An HMO licence was first issued for the property in July 2007. No objections to the ground, first and second floors.
My only on-going concern is with the basement flat and potentially limited natural light to the living area. That may not be enough to enable the occupant(s) to carry out daily duties without the use of artificial lighting. However, there appears to be some natural lighting directly in to the living area and the PHS team have not received complaints/reports that there is an issue concerning this.
- RBC Council tax - Our records show there are two dwellings banded at this property, the main house 28 has been banded since at least 01.04.1997 and the basement flat has been banded since 19.10.2010.
The dwellings have been separately occupied by tenants since the date of banding.
- RBC Electoral register - lease see below the number of electors registered at 28 Cumberland Road.
28 Cumberland Road
2025 2
2024 2
2023 1
2022 1
2021 1
2020 3
2019 3
2018 3
2017 4
2016 3

- Legal Consultations – No objections have been made to the recommendation to grant a Certificate of Lawful Existing Use for 28 Cumberland Road.
- Planning Enforcement Consultations – No comments were made at the time of writing this report
- RBC Environmental Protection – There are no comments to make on this application.

6. SUBMITTED EVIDENCE

Overview table

6 bedroom HMO – information only provided for 1 room – number 6 – same tenant Mr Chmiel

Tenancy Start Date	Tenancy End Date	Tenant(s)	Agent	Notes and supporting Document	Gap/time period vacant if any
29/11/2014	28/05/2015	1	N	Assured shorthold tenancy agreement	A declaration has been submitted that it has remained the same tenant
29/03 2019	28/03/2020	1	N	Assured shorthold tenancy agreement	
29/03 2020	28/03/2021	1	N	Assured shorthold tenancy agreement	
29/03 2021	28/03/2022	1	N	Assured shorthold tenancy agreement	
29/03 2023	28/03/2024	1	N	Assured shorthold tenancy agreement	
29/03 2024	28/03/2025	1	N	Assured shorthold tenancy agreement	

Basement studio flat – different tenants

Tenancy Start Date	Tenancy End Date	Tenant(s)	Agent	Notes and supporting Document	Gap/time period vacant if any
08/12/2017	07/12/2018	1	N	Assured shorthold tenancy agreement	Gap from 2014 to 2017
17/10/2018	16/10/2019	1	N	Assured shorthold tenancy agreement	
29/04/2020	28/04/2021	1	N	Assured shorthold tenancy agreement & supporting docs	
05/01/2021	04/01/2022	2	N	Assured shorthold tenancy agreement	

				& supporting docs	
05/01/2022	04/01/2022	2	N	Assured shorthold tenancy agreement & supporting docs	
05/01/2023	04/01/2024	1	N	Assured shorthold tenancy agreement & supporting docs	
30/08/2024	29/08/2025	1	N	Assured shorthold tenancy agreement & supporting docs	

Information submitted

RBC- 416977 HMO Property licence for 6 persons, Reading Borough Council, from 30 October 2012 to 29 October 2017

RBC-603118 HMO Property licence for 6 persons, Reading Borough Council, from 30 October 2017 to 29 October 2022

RBC-109549765641 HMO Property licence for 6 persons, Reading Borough Council, from 30 October 2022 to 29 October 2027

NB HMO documents do not mention the basement

PP-14003503v1 Location Plan

FP-28A_Cumberland_Road_READING_RG1_3LB – Basement layout plan

28cr_ground_floor – Ground floor plan

28cr_first_floor – First floor plan

28cr_second_floor - Second floor plan

CIL form

Tenancies all for 12 month periods

AST-2019 Tenancy date 29/11/2014 1 tenant, Room 6 29/11 2014 to 28/05/2015

AST-2019 Tenancy date 29/03/2019 1 tenant, Room 6 29/03 2019 to 28/03/2020

AST-2020 Tenancy date 29/03/2020 1 tenant, Room 6 29/03 2020 to 28/03/2021

AST-2021 Tenancy date 29/03/2021 1 tenant, Room 6 29/03 2021 to 28/03/2022

AST-2023 Tenancy date 29/03/2023 1 tenant, Room 6 29/03 2023 to 28/03/2024

AST-2024 Tenancy date 29/03/2024 1 tenant, Room 6 29/03 2024 to 28/03/2025

28cr_lw_statutory_declaration_witnessed – Statutory declaration signed by a tenant of room 6 to confirm layout, use of the HMO and the occupation of the basement studio flat over a period of 4 years, signed and witnessed by N Brothers solicitor on 10/02/2025

28ac_2017-2018. Residential landlords association Deposit guard Assured shorthold tenancy agreement 8/12/2017, 1 tenant, 28 A Cumberland Road 08/12/2017 to 07/12/2018

28acr_2018-2019 V2JW24042018 Assured shorthold tenancy agreement, 17/10/2018 1 tenant, 28A Cumberland Road 17/10/2018 to 16/10/2019

28acr_Combo copy2020-2021. Containing DocuSign Envelope ID: DocuSign Envelope ID: C4AE9244-43AE-4DBA-847C-653DE37F638B

- V1JW14052019 Assured Shorthold tenancy May 2019 edition, RLA landlords assoc, Tenancy date 29/04/2020 1 tenant, Basement flat 29/04/2020 to 28/04/2021

- Tenancy Deposit Protection Certificate, Basement flat
- Right to rent identification form
- Tenancy Deposit scheme
- How to rent document
- 9848-8049-6255-6521-5920, Energy Performance Certificate, Basement flat 28 Cumberland Road, 14 May 2019, 25m2
- 4400614 Gas safety certificate, Weldonne appliances, 02/07/2019
- Tenant's document checklist 29/04/2020

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- V1JW14052019 Assured Shorthold tenancy May 2019 edition, RLA landlords assoc, Tenancy date 05/01/2021 2 tenants, 28A Cumberland Road 05/01/2021 to 04/01/2022
- Tenancy deposit protection certificate, Basement flat 28A Cumberland Road, 5 January 2021
- Tenancy Deposit scheme
- How to rent document
- D602580 28 Basement Cumberland Road electrical installation KEWTECH, 14/03/2021
- 46C 082 Gas Safety Certificate 28 Cumberland Road, 20/07/2020
- 9848-8049-6255-6521-5920 Energy Performance Certificate, Basement maisonette, 28 Cumberland Road, 14 May 2019, 25m2
- Tenant document checklist 05/01/2021

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- V1JW14052019 Assured Shorthold tenancy May 2019 edition, RLA landlords assoc, Tenancy date 05/01/2022 2 tenants, 28A Cumberland Road 05/01/2022 to 04/01/2022
- Tenancy Deposit Protection Certificate, 28A Cumberland Road
- Tenancy Deposit scheme
- How to rent document
- 46C 082 Gas Safety Certificate, 28 Cumberland Road
- 28CR-BAS Electrical installation condition report basement 28 Cumberland Road, 19 Mar 2021
- Tenancy Deposit scheme
- How to rent document 2023
- Tenant document checklist 05/01/2022

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- V1JW14052019 Assured Shorthold tenancy May 2019 edition, RLA landlords assoc, Tenancy date 05/01/2023, 1 tenant 28A Cumberland Road from 05/01/2023 to 04/01/2024
- Tenancy Deposit Protection Certificate, 28A Cumberland Road
- Tenancy Deposit scheme
- How to rent document
- 28CR-BAS Electrical Installation condition report, Basement 28 Cumberland Road, 19 Mar 2021
- 9848-8049-6255-6521-5920 Energy Performance Certificate, Basement maisonette, 28 Cumberland Road, 14 May 2019, 25m2
- Tenant document checklist 05/01/2023
- Email from Sanda Bica on 5 Sept 2024 requesting to end the lease moved out on 4 August 2024 for a deposit settlement.

28acr_AST_draft copy2024-2025 Containing Docusign Envelope ID: B2CAD16C-EAE8-4B4F-A755-215B131A4E13

- V1JW14052019 Assured Shorthold tenancy May 2019 edition, RLA landlords assoc, Tenancy date 30/08/2024 1 tenant, 28A Cumberland Road 30/08/2024 to 29/08/2025
- Tenancy Deposit Protection Certificate, 28A Cumberland Road
- Tenancy Deposit scheme
- How to rent document 2023
- 9848-8049-6255-6521-5920 Energy Performance Certificate, Basement maisonette, 28 Cumberland Road, 14 May 2019, 25m2
- 28 CR-BAS Electrical installation condition report, 19 Mar 24
- Tenant document checklist 30/08/2024

As received 12 May 2025

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate either that the use of 28 Cumberland as an HMO began more than 10 years before the date of this application of 12 May 2025. The application form states that the use began at least 10 years before 25 April 2024 for the HMO from 29/11/2014 and for at least 4 years before 25 April 2024 for the basement self-contained flat.

With regards to internal consultee response; the Council Tax team have confirmed that the ground, first and second floors of the property have been banded as an HMO since 01/04/1997 and that the basement flat has been banded since 19/10/2010 and that the dwelling has been separately let by tenants since the date of banding.

HMO certificates have been provided for the ground, first and second floor from 30 October 2012 to present.

“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”

Tenancy agreements have been provided by the applicant which demonstrate use of 28 Cumberland Road as an HMO only for room 6 for the same tenant and the basement at 28A Cumberland Road as a basement flat for different tenants for the relevant time periods.

Although there are gaps in between the tenancy agreements provided for room 6 and an absence of information provided for the remaining rooms, a statutory declaration has been submitted and witnessed (but not stamped) by a solicitor.

Legal Services are in agreement that the Council does not hold any evidence to contradict the above claims made by the applicant regarding the gaps in tenancies.

The applicant has demonstrated that the 28 was in use as a large HMO, and the LPA has no evidence that this use was then changed or lost. As such, this is considered sufficient to demonstrate the present use of 30 Cumberland Road as a 6 bedroom HMO C3 and a separate basement studio flat at 28A Cumberland Road as lawful.

8. RECOMMENDATION

GRANT

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of the ground floor, first floor and second floor of 28 Cumberland Road has been in use as a self-contained HMO use class C3 begun more than 10 years ago and the self-contained basement flat has been in use for more than 4 years. There is no evidence to suggest each of these uses were changed or lost. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Informative

Positive and Proactive – Approval