

DELEGATED APPLICATION REPORT

Ward: Abbey Ward

App Ref: PL/25/1064 Lawful development: Existing use

Address: FLAT 6, 23 PROSPECT STREET, READING, RG1 7YQ

Proposal: Certificate of Lawfulness for Existing use as a residential studio flat

Applicant: Wheatman

Received date: 28/07/2025

Target Decision date (agreed extension): 16/10/2025

Case Officer: Sian Hickey

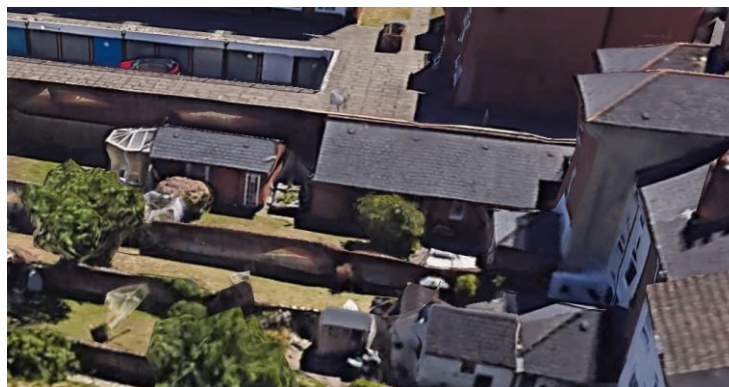
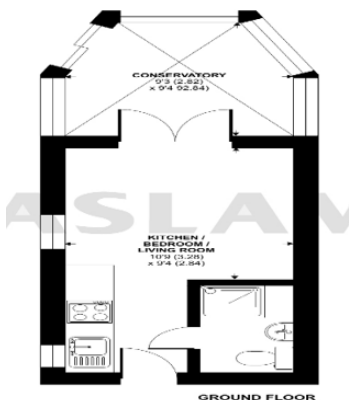
1. SITE DESCRIPTION

Site visit date: 19th August 2025



The application site is a three-storey terraced building with a basement below and habitable space in the roof. The property consists of 6 flats in total. This application relates solely to flat 6. Flat 6 is at the back of the property, at the end of the garden within an outbuilding and conservatory.

The surrounding area is a predominantly residential. The application site falls within the Castle Hil/Russel Street/Oxford Road Conservation Area. The property is not listed.



Google earth image:

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 a self-contained studio flat (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 existing use of flat 6.

The submitted application form identifies that the use commenced on 27th December 2014.

The relevant 4-year time period for this application is **28/07/2021-28/07/2025**.

Plans and other information considered:

- Application form
- Location Plan
- Floor Plan
- Inventory for flat 6 – including photographs
- Support letter from letting agent
- Variety of Invoice Statements from letting agent
- 3 Tenancy Agreements
- Letter from letting agent regarding Periodic Tenancy Notification
- Letter from letting agent regarding Termination of Tenancy
- 2 Council Tax bills

3. RELEVANT PLANNING HISTORY

History relating to the individual flat: **None**

History relating to the site: **Application PL/25/1062** – Flat 2, 23 Prospect Street, Reading, RG1 7YQ - Certificate of Lawfulness for Existing use as a residential studio flat. Certificate Granted.

4. CONSULTATIONS

Planning Enforcement:

One case record.

Electoral Registration:

The Electoral Registration team have confirmed that there has been 1 and 2 persons registered during the qualifying period.

Council Tax:

The Council Tax team have confirmed that this property is banded as a single dwelling for Council Tax Purposes since at least 01/04/1997 and that this flat has been occupied by various different people since the date of banding.

Legal:

I am satisfied that the applicant has submitted evidence, which is sufficiently precise and unambiguous, to prove the purported use of Flat 6 for more than 4 years preceding the date of application. Further, I am satisfied that nothing from the Council's own enquiries and site visits has revealed anything that would make the applicant's version of events less than probable. I have no concerns about your recommendation to grant the requested CLE.

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 ground floor outbuilding with conservatory, known as flat 6, 23 Prospect Street, began more than 4 years before the date of this application of 28th July 2025 and has been in continuous use as a flat for the relevant time period which is **28/07/2021-28/07/2025**. The application form states that the use of flat 6 began on 27th December 2014.

With regard to the internal consultee responses the Electoral Registration team have provided the information below to show registered electors at flat 6:

YEAR	ELECTORS REGISTERED
2025	2
2024	1
2023	1
2022	1
2021	1
2020	1
2019	1
2018	1
2017	1
2016	1

Council Tax has confirmed that this property has been banded as a single dwelling, for Council Tax Purposes, since at least 01/04/1997. This flat has been separately let out to various tenants since the date of banding. The flat is referred to as Flat 6, The Garden Flat.

The Planning Enforcement team confirmed they had one historic case at this site ref. PE/08/0479 (change of use of the property to 6 flats, only have consent for 4). This case was closed on 26/02/2009.

Turning to the evidence submitted by the applicant, these documents support the claim that the unit has been in use as a self-contained flat, for at least four years, prior to the application being submitted.

The photographs within the flat inventory provides good confirmation of the accuracy of the floor plan, which further supports the claim. A site visit carried out by the planning officer on 19th August 2025 supports the claim that the building is in use as 6 individual flats as there were 6 black bins and 6 recycling bins located at the front of the site, however, the planning officer was unable to gain access inside the flats.



It is clear from the evidence provided that two separate tenants have been in the property for the qualifying period. One signed tenancy agreement has been submitted for the period 21/8/24 - 20/8/25, this is further supported with invoice statements showing monthly payments from the tenant.

Prior to this, the previous tenant was in the property from 18/11/2016 until 30/06/2024. A tenancy agreement for this tenant has been submitted to cover the period 18/11/16-17/11/17. A variety of invoice statements have been submitted to show payments from the tenant for the qualifying period along with a letter from the letting agent dated 05/03/2024 confirming that this tenant was still in the property and had been continuing on a statutory periodic basis with effect from 31 May 2019. An extension tenancy agreement was then provided for a 12-month period starting from 01/06/2024.

The applicant has confirmed that the gap between tenants was required so that minor works could be carried out before the new tenant moved in. A Council Tax bill has been provided as evidence to cover this period.

In the absence of evidence to the contrary, on the balance of probabilities, it can be confirmed that the property has operated as a self-contained flat (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 flat 6 (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 flat 6, the premises within the outbuilding and conservatory at the rear of the property at 23 Prospect Street, READING, RG1 7YQ has been in continuous use as a self-contained residential unit for a period of at least 4 years. It is, therefore, considered that a Certificate of Lawfulness for the use of flat 6 (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

