



Appeal Decision

Site Visit made on 30 June 2021

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 26th July 2021

Appeal Ref: APP/E0345/X/20/3262741

1 & 2 New Century Place, East Street, READING, RG1 4ET

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Studious Reading Limited against Reading Borough Council.
 - The application ref 201259 is dated 4 September 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is 135 self-contained studio apartments in Class C3 dwellinghouse use.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Applications for costs

2. An application for costs was made by the appellants and is the subject of a separate letter.

Reasons

3. Nos 1 and 2 are separate blocks of flats in a fairly new development. They have been converted from offices using permitted development rights to make a material change of use from offices to dwellings. A third block is adjacent but this was purpose built with planning permission as student accommodation and is not part of this appeal and I have no evidence as to how it is run or what it looks like inside.
4. The Council are correct that student accommodation can be a sui generis use and so if the offices were converted into student accommodation then the permitted development rights may not have applied and the conversion would be unlawful. The issue is therefore whether the new use is as student accommodation or as separate dwellings.
5. It is obvious that student accommodation can also be a flat. Many houses are converted into flats and those flats subsequently rented to students, this does not involve a material change of use away from a C3 dwellinghouse, each flat is merely a C3 use occupied by a student. Similarly HMOs are very popular with students, but that does not mean they are no longer dwellinghouses being used as HMOs. In my view, for student accommodation to be considered sui generis then it has to be different in some way from a normal block of flats.

6. The Council point to the provision of study rooms and I saw several examples of these on my site visit. There seem to be one small room on each floor provided with a table and chairs. Other communal facilities are a laundry room, recycling facilities, a gym, a lounge with a bar and a dining room that can be used by the occupants in one of the blocks, the other just has the laundry, recycling and study rooms. The principle block with the main facilities also has a reception desk. None of these facilities seemed to me to be suggestive of a particular use. All would be typical in a block of flats aimed at young professionals just as much as students. The facilities were of a high quality and not obviously aimed at students.
7. The rooms themselves were generous one bedroom studio flats, with a separate bathroom and a large living/cooking/dining space and a double bed. They clearly meet the Gravesham¹ tests and so appear to be dwellings. Indeed the whole set up was nothing like student accommodation I remember, or perhaps more relevantly that my children and their friends experienced. There was nothing in the physical arrangements of the building that suggested this was anything other than a C3 use.
8. However, I agree with the Council that the definition given in Gravesham only means the building in question could be a dwellinghouse, it is not definitive, how a building is used could also be important. In this case the Council point to various matters such as the way energy is calculated and paid for, the fire and smoke alarms fitted have been approved by the building regulations for non-residential buildings, the rents appear to be paid on an academic year basis, there is tight control over what the occupants can do and even overnight guests are limited to 3 days or they have to pay more rent.
9. In my view the energy and utilities arrangements are not necessarily unusual for private flats, I've come across several conversions in London where the ability to appoint your own supplier is restricted. I do think the controls applied to the occupiers sound much more like the sort of limits one would place on students, rather than private occupiers, but that it is a function of the market being aimed at. As the Council point out the majority of the tenants are students and the appellants make no secret of the fact that they market the buildings primarily to students. Nevertheless, the buildings are also aimed at young professionals and there are some flats rented out to those sorts of non-students. The Council contend that many of these may well be post-graduates or lecturers as their rents are also linked to the academic terms, I have no real evidence either way.
10. It seems to me therefore, what we have here are two buildings that have been converted into what appear to be flats aimed at young, single people. Most of those people are students, but that does not make it a student hall of residence, it is just a block of flats with lots of students in. If the university were to reduce its student numbers the flats could just as easily be rented out to a different demographic, there is nothing specifically 'student' about it. Put another way, there is little to suggest the use is sui generis, but a lot to suggest that it is a C3 use. I shall issue the certificate accordingly.
11. I have made no mention of the planning unit. There is no dispute the certificate relates to the two buildings in question. Whether they form 135

¹ Gravesham BC v SSE & O'Brien [1982] 47 P&CR 142

separate planning units or, because of the shared communal facilities, two large planning units is not relevant to my decision.

Simon Hand

INSPECTOR



The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 4 September 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: the works were authorised by the General Permitted Development (England) Order 2015 .

Signed

Simon Hand

Inspector

Date 26th July 2021

Reference: APP/E0345/X/20/3262741

First Schedule

135 self-contained studio apartments in Class C3 dwellinghouse use

Second Schedule

1 & 2 New Century Place, East Street, READING, RG1 4ET

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use in the First Schedule taking place on the land specified in the Second Schedule was on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

