



Planning note

Ref: DA22083 - 418 Bury New Road

Site address: 418 Bury New Road, Prestwich. M25 1BD

Date: 22nd September 2022

Proposal: Certificate of Lawfulness, as ground floor retail and six studios.

1. Introduction

1.1 This statement has been prepared in support of a Certificate of Lawfulness Application for existing retail shop and six studio apartments.

2. Location

2.1 The site is located in Prestwich Village.

3. The site

3.1 The site consists of a ground floor retail shop and one studio to the rear. On the first floor there are four studio apartments and on the second floor there is one studio apartment.

3.2 The site has been in the ownership of the applicant since May 2015 and in all this time it has been in continuous use as one retail shop and six studios.

4. Planning policy

4.1 The statutory framework for this application is set out in sections 191-193 of the Town and Country Planning Act 1990 ("the Act").

4.2 The following is an extract from the planning legislation guidance notes and describes the proof threshold required for this application to be approved.

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.



5. Evidence of use.

5.1 The evidence presented to support this application is two affidavits which also include rent schedules and tenancy agreements.

5.1.1 Appendix A is a signed affidavit from the Managing Agents of the property Welbeck properties, who currently manage the property and have been managing the property continuously since May 2015. The affidavit affirms that the site is and always has been one retail shop and six studio apartments. The affidavit also includes a detailed schedule of tenancies for all studios since 2017.

5.1.2 Appendix B is a signed affidavit from the owner which affirms that the property has been in continuous use as one retail shop and six studio apartments in all years of ownership.

6. Assessment of evidence against threshold required

6.1 The completed affidavits is Testimony in accordance with HM Courts and Tribunals and in the absence of information to the contrary must be accepted as read.

7. Conclusion.

7.1 This application seeks to obtain a Certificate of Lawfulness for the use of the site as a retail shop and six studio apartments. The evidence provided is in the form completed affidavits and includes a schedule of tenancies. Actual tenancy agreements can be supplied if required.

7.2 The proposal is not contended and passes the threshold of proof – namely, ‘not less than probable’, as required under the legislation. It is for this reason, we ask that the council approve this application.