



Appeal Decision

Site visit made on 17 February 2020

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2020

Appeal Ref: APP/P0119/X/19/3236536

Fleur de Lys, 12 Shortwood Road, Pucklechurch, Bristol, BS16 9RA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 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 Pucklechurch Restaurants against South Gloucestershire Council.
 - The application (Reference P19/5721/CLE) is dated 25 May 2019.
 - 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 continued use as an A3 restaurant.
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Decision

1. The appeal is allowed and a certificate for a mixed use is attached to this decision.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Reasons

3. The application is to ascertain whether the continued use of the property as a restaurant falling within A3 of the use classes order is lawful. The appellant argues it has been an A3 use at least from 1999 and at that time fell into the then Class A3. In 2005 the UCO was amended and Class A4 introduced so that now A3 is for "*the sale of food and drink for consumption on the premises*" and Class A4 is for "*use as a public house, wine-bar or other drinking establishment*". As the appellant states the Circular issued with the amendments (03/2005) suggests whether an establishment falls into one or other of those classes will depend on whether the primary purpose is as a restaurant or as a drinking establishment.
4. Unfortunately the circular was clearly written by a person who had never been into a pub as it unhelpfully goes on to advise that A3 is for the sale of food for consumption on the premises and A4 is for the sale of alcoholic drinks for consumption on the premises. Very few pubs will fall squarely into A4 category and it is clear to me the vast majority will fall between the two, they will be a mixed use of A3/A4, or as it is described in the GPDO (Part 3 of Schedule 2): Class AA - drinking establishments with expanded food provision.

5. The GPDO Class AA is not a use class, although it does describe the use of most modern pubs very well, so the use of a Class AA establishment will be a mixed use but best described as a drinking establishment with expanded food provision.
6. The appellants argument that the premises were clearly a restaurant relies on the various descriptions and photographs of it from over time. There is no evidence concerning turn over or numbers of covers. In 1998 the application for signage shows typical pub signs, including a lounge bar and traditional cask ales. The 2009 Google photograph shows a public house. It has pub signs, a lounge bar and a beer garden. There is a chalk board outside advertising Indian and Bangladeshi cuisine, but that does not stop it from being a pub. Undated sale documents show the pub very much as it looks today and the interior photographs show a traditional bar area with bar stools, comfy seating, a pool table and what looks like a juke box and a big screen TV, a carvery and a beer garden. It is hard to imagine a more traditional looking pub. It is described in the details as a pub. It also has a gaming machine licence and as the Council point out it appears on Facebook, CAMRA, Whatpub and the Good Pub Guide as a pub.
7. The use of the building would seem to me, without doubt, to have last been a pub and is most likely it has always been a pub. The Council conclude that given there is also clear evidence for the associated restaurant use this is a mixed sui generis use, as I described above, and I would agree. The Council suggest that had they issued a certificate it would have been for a sui generis mixed use and the appellant has indicated this would be acceptable.

Conclusions

8. I shall issue a certificate for a mixed use of a drinking establishment with expanded food provision.

Simon Hand

Inspector



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 25 May 2019 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: the use has subsisted for more than 10 years.

Signed

Simon Hand

Inspector

Date 24 February 2020

Reference: APP/P0119/X/19/3236536

First Schedule

a mixed use of a drinking establishment with expanded food provision.

Second Schedule

Land at Fleur de Lys, 12 Shortwood Road, Pucklechurch, Bristol, BS16 9RA

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 described 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 and identified on the attached plan. 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.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 24 February 2020

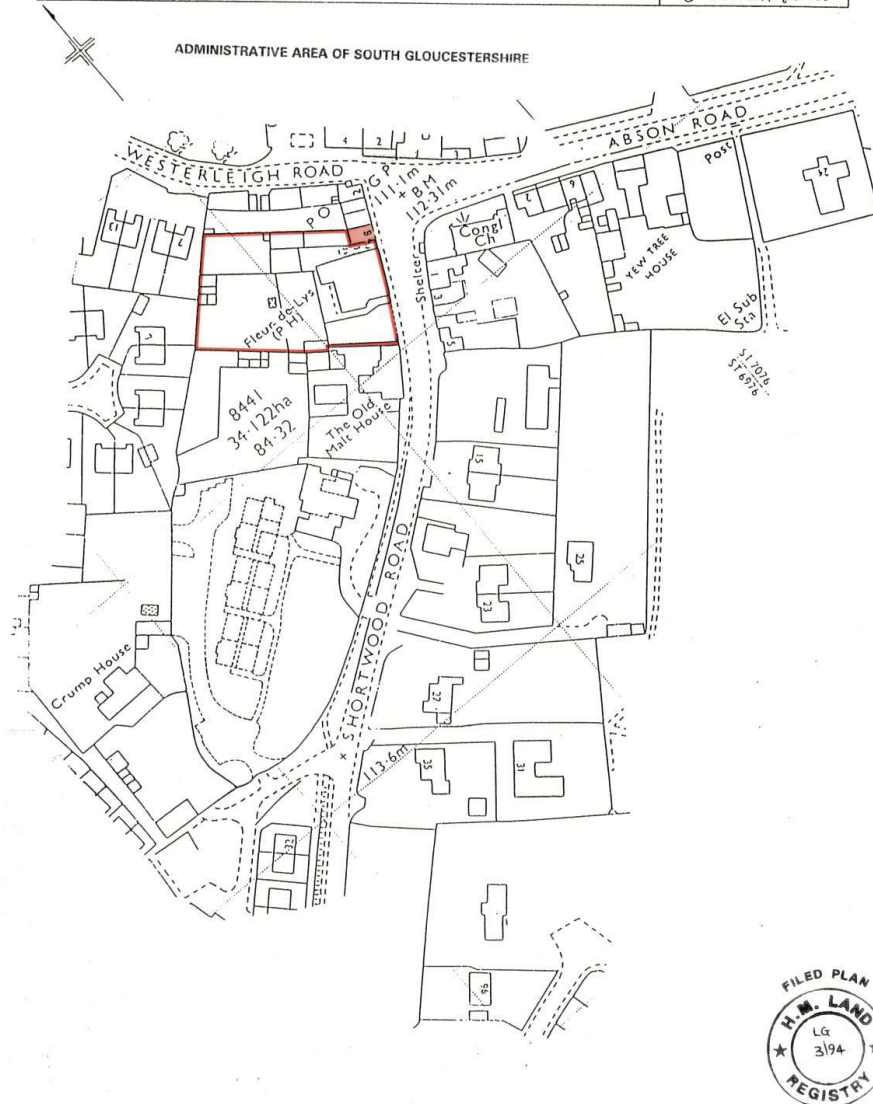
by **Simon Hand MA**

Land at: Fleur de Lys, 12 Shortwood Road, Pucklechurch, Bristol, BS16 9RA

Reference: APP/P0119/X/19/3236536

Scale: not to scale

H.M. LAND REGISTRY		TITLE NUMBER AV236601	
ORDNANCE SURVEY PLAN REFERENCE	ST 6976	SECTION C	Scale 1/1250 Enlarged from 1/2500
COUNTY AVON	DISTRICT NORTHAVON	© Crown copyright 1986	



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