



Appeal Decision

Site visit made on 11 June 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/Z0116/X/24/3341263

3 Christina Terrace, Bristol BS8 4QB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr. Timothy Todd against the decision of Bristol City Council.
 - The application ref 24/00129/CP, dated 14 January 2024, was refused by notice dated 1 February 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is described as: *'Officialise the property use as 'C4 Houses [sic] in multiple occupation. The house has been used as a 6-bedroom HMO before 21st October 2012 when Article 4 was introduced No.7 Clifton Ward. The main, rear annex and bay window roofs require renewal. It is intended to:- Replace the existing red clay tiles, battens and roofing felt/underlay with new incl. double roman colour rustic/old English dark red concrete tiles, insert two roof lights, re-render parapet walls and repoint chimneys, repair/replace parapet wall coping stones with concrete coping stones, repair/replace soffit and fascia, replace gutters and down pipes with new, repair leadwork as required.'*
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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 proposed operations which are considered to be lawful.

Preliminary Matter

2. The main parties confirmed that following submission to the Council, the terms of the application were modified to refer only to the proposed works. The appellant further modified the proposed works during the appeal in relation to the roofing materials. I have considered the appeal on that basis, the description in the banner heading above notwithstanding.

Main Issue

3. The main issue in this appeal is whether the Council's refusal to grant an LDC was well-founded. This turns on whether it has been shown that planning permission is granted for the proposed works by Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

4. The onus is on the appellant to show why an LDC should be issued, the relevant test of the evidence being on the balance of probability.

5. The appeal concerns a traditional three-storey, mid-terrace residential building. The building is located within the City Docks Conservation Area (CA). I am given to understand that the building is used as a small House in Multiple Occupation (HMO), within Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
6. The proposed works involve undertaking various alterations to the building. These include replacing the existing cement render on the parapet walls with new cement render, repairing /replacing damaged parapet wall coping stones on the rear of the main roof, repointing the chimney stacks, repairing roof leadwork with lead, repairing and replacing the soffit and fascia with new black uPVC, replacing gutters and down pipes with new black uPVC, inserting two roof lights in the main roof slopes and replacing the roof tiles on the main roof and the rear outrigger roof with clay double Roman tiles.
7. Taken together, the proposed works fall within the meaning of 'development' set out in s55(1) of the Town and Country Planning Act 1990 (the Act), which includes the carrying out of building operations in, on, over or under land. For the purposes of the Act, 'building operations' include structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on a business as a builder.
8. Planning permission is required for the carrying out of any development of land, having regard to s57(1) of the Act. At s191(2)(a), the Act states that operations are lawful where no enforcement action may be taken in respect of them. This includes for example, where the operations benefit from a grant of planning permission.
9. At Article 3, Schedule 2, Part 1, Class A, the GPDO grants planning permission for the enlargement, improvement or other alteration of a dwellinghouse, subject to the limitations in paragraphs A.1 and A.2, together with the conditions in paragraphs A.3 and A.4, being satisfied. Class C of Part 1 grants permission for alterations (other than an addition) to the roof of a dwellinghouse, where the limitations in paragraph C.1 and conditions in paragraph C.2 are satisfied.
10. A small HMO within Class C4 is still a 'dwellinghouse' for the purposes of the GPDO. Paragraph A.2(a) of Class A restricts certain works where, as in this case, the dwellinghouse is in a CA. In my view, replacing the render on the parapet walls would not '*...consist of or include the cladding of the exterior of the dwellinghouse... in render.*' The external surfaces of the parapet walls are already rendered. No further part of the exterior of the building would be covered in render. Therefore, this aspect of the works would not be in breach of the limitation in paragraph A.2(a).
11. The details supplied with the appeal show that the other aspects of the proposed works falling within Class A would use external materials similar in appearance to those used in the construction of the exterior of the building. The Government's Technical Guidance assists in interpreting the provisions of the GPDO. This advises that the materials used in works to enlarge, alter or improve a dwellinghouse should be of a similar visual appearance to those in the existing dwellinghouse but do not need to be the same materials¹. As a result, there would also be no breach of the condition in paragraph A.3(a).

¹ Permitted development rights for householders: Technical Guidance September 2019

12. As the appellant has confirmed that the proposed rooflights would not project more than 0.15m beyond the slope of the original roof, there would be no breach of the limitation in paragraph C.1(b) of Class C.
13. There is no dispute between the main parties that, other than in relation to the matters discussed above, the proposed works would satisfy the relevant limitations and conditions of Classes A and C. I concur.
14. Therefore, the appellant has been able to show that, on the balance of probability, the proposed works are granted planning permission by Part 1, Class A and Class C of the GPDO and are lawful for planning purposes.

Conclusion

15. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for the proposed works was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Stephen Hawkins

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 14 January 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probability, planning permission is granted for the proposed works, as specified on drawing numbers 01 Rev 01, 02 Rev 01, 03 Rev 01 and 04 Rev 01 and further described in the supporting correspondence dated 23 March 2024, by Article 3, Schedule 2, Part 1, Class A and Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

Stephen Hawkins

Inspector

Date: 21 June 2024

Reference: APP/Z0116/X/24/3341263

First Schedule

Replace the existing red clay tiles, battens and roofing felt/underlay with new red clay double Roman tiles, insert two roof lights, re-render parapet walls and repoint chimneys, repair/replace parapet wall coping stones with concrete coping stones, repair/replace soffit and fascia, replace gutters and down pipes with new, repair leadwork as required

Second Schedule

Land at 3 Christina Terrace, Bristol BS8 4QB

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 21 June 2024

by Stephen Hawkins MA, MRTPI

Land at: 3 Christina Terrace, Bristol BS8 4QB

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Scale: Not to Scale

