

Appeal Decision

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/Z0116/X/24/3338146

Flats 1, 2, 3 and 4, 6 Redland Hill, Bristol, BS6 6UY

- 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 Mr Jonathan Blair against Bristol City Council.
 - The application ref 23/03281/CE is dated 21 August 2023.
 - 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 for the use of the property as four flats.
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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.

Preliminary matter

2. No site visit was held in connection with this appeal as matters of historic evidence are determinative and because of the Council's current position on the appeal.

Reasons

3. The Council failed to determine the LDC application but in their statement of case acknowledged that the conversion of the property into four flats is in accordance with a planning permission approved under reference 06/02750/F for the conversion of a House in Multiple Occupation to 4 No. self-contained flats and associated external alterations subject to conditions.
4. Condition 1 is the standard time condition requiring that the development permitted shall begin before the expiration of three years of the date of the permission. The Council advises that Building Control records show that work to convert the property commenced while the planning permission remained extant. This is supported by the various documents submitted by the appellant.
5. On the basis that the development applied for already benefits from planning permission, then it is immune from enforcement action. In any event the appellant has shown on the balance of probabilities that the conversion of the property took place prior to 10 years before the LDC application and this takes

the development outside the timescale for taking enforcement action as set out in s171B of the Act.

6. The Council has suggested that a condition should be imposed on the LDC but an LDC cannot be the subject of conditions. As the notes attached to the certificate state, it applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter which is materially different from that described, may result in a breach of planning control which is liable to enforcement action by the local planning authority

Conclusion

7. For the reasons given above I conclude, on the evidence now available, that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

P N Jarratt

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 21 August 2023 the matter described in the First Schedule hereto, constituting a failure to comply with a condition or limitation subject to which planning permission has been granted, in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(3) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The conversion of the property into four flats is in accordance with a planning permission approved under reference 06/02750/F for the conversion of a House in Multiple Occupation to 4 No. self-contained flats and associated external alterations and in accordance with Condition 1 of that permission.

Signed

P N Jarratt

Inspector

Date: 20 September 2024

Reference: APP/Z0116/X/24/3338146

First Schedule

Second Schedule

Land at Flats 1, 2, 3 and 4, 6 Redland Hill, Bristol, BS6 6UY

IMPORTANT NOTES – SEE OVER

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 matter, constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 or 187A of the 1990 Act, on that date.

This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter 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: 20 September 2024

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Scale: Not to Scale

