

'Hold Date'	
-------------	--

# Bristol City Council Development Management

---

## Delegated Report and Decision

<b>Application No:</b>	21/00612/CE	<b>Registered:</b>	4 February 2021
<b>Type of Application:</b>	Certificate of Lawfulness - existing		
<b>Case Officer:</b>	Angelo Calabrese	<b>Expiry Date:</b>	1 April 2021

**Site Address:**

17 Portland Square  
Bristol  
BS2 8SJ

**Description of Development:**

Application for a lawful development certificate to that planning permissions 15/05105/F & 15/05106/LA has been lawfully implemented and remains extant.

Please refer to the Covering Letter and Appendices by CSJ Planning for full details.

**Ward:** Ashley

**Site Visit Date:**

**Date Photos Taken:**

**Consultation Expiry Dates:**

**Advert  
and/or Site  
Notice:**

**Neighbour:**

### SITE DESCRIPTION

End terrace grade II listed building.

### RELEVANT HISTORY

15/05105/F & 15/05106/LA

### APPLICATION

The purpose of the application is to seek confirmation that conditional planning and listed building consent references 15/05105/F & 15/051606/LA have been lawfully implemented and remain extant.

### RESPONSE TO PUBLICITY AND CONSULTATION

Certificate applications do not require consultation or publicity.

### RELEVANT POLICIES

National Planning Policy Framework – February 2019

Bristol Local Plan comprising Core Strategy (Adopted June 2011), Site Allocations and Development Management Policies (Adopted July 2014) and (as appropriate) the Bristol Central Area Plan (Adopted March 2015) and (as appropriate) the Old Market Quarter Neighbourhood Development Plan 2016 and Lawrence Weston Neighbourhood Development Plan 2017 and the Hengrove and Whitchurch Park Neighbourhood Development Plan 2019.

**DEVELOPMENT CONTROL () DELEGATED  
17 Portland Square Bristol BS2 8SJ**

In determining this application, the Local Planning Authority has had regard to all relevant policies of the Bristol Local Plan and relevant guidance.

**KEY ISSUES**

**HAS THE PERMISSION BEEN LAWFULLY IMPLEMENTED?**

Section 56 of the Town and Country Planning Act 1990 (Part 2) states that for the purposes of the provisions of this part mentioned in subsection (3), development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

In order to issue a certificate the onus of proof is firmly on the applicant and in order to satisfy the Local Planning Authority that a certificate should be granted, the courts have held that the relevant test of the evidence submitted is 'the balance of probability'. As this test will accordingly be used by the Secretary of State in any appeal against the Council's decision, the Local Planning Authority should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely, 'beyond reasonable doubt'. Because the matters to be determined are based solely on evidence, with the burden of proof being on the applicant, it is not possible to consider the planning merits of the case or compliance with planning policy.

If the LPA have no evidence of their own, or 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. The legal test of the evidence is on "the balance of probability" rather than "beyond reasonable doubt".

The approved scheme is for a change of use from offices to residential within a listed building. These applications comprised both a change of use and building operations. If building operations have taken place the development will have been initiated (material operation).

The application includes details of the site owner carrying out building work at some point between the 9 and the 10th May 2019. The work carried out was the removal of the vaulted cellar in order to create the light well to the rear of the building as shown on the approved plans. Works were also commenced through the propping of the existing retaining structure and the temporary covering over of the formation, which was necessary to protect the listed building fabric until the formation of the proper retaining structure is formed. The approved plans reference the works which were carried out.

Prior to the commencement of the work, the applicant obtained confirmation that the pre-commencement conditions attached to both the planning and listed building consent had been discharged (17/05401/COND and 17/05394/COND )and also provided the LPA with the requisite notice of their intention to commence works on-site.

Based on the evidence provided and on the balance of probabilities it is considered that the permission has been implemented before the expiry date of the permission and the development is extant.

**EQUALITIES ASSESSMENT**

During the determination of this application due regard has been given to the impact of this scheme in relation to the Equalities Act 2010 in terms of its impact upon key equalities protected characteristics. These characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is no indication or evidence (including from consultation with relevant groups) that different groups have or would have different needs, experiences, issues and priorities in relation this particular proposed development.

**DEVELOPMENT CONTROL () DELEGATED**  
**17 Portland Square Bristol BS2 8SJ**

Overall, it is considered that this application would not have any significant adverse impact upon different groups or implications for the Equalities Act 2010.

**RECOMMENDED Certificate of Lawfulness BE ISSUED**

**Time limit for commencement of development**

1. The development and works approved under applications 15/05105/F & 15/05106/LA has commenced in accordance with Section 192 (part 2) of the Town and Country Planning Act 1990. Consequently, in accordance with Section 192 (part 2) of the Town and Country Planning Act 1990, a certificate of lawfulness for the proposal can be issued, which needs to be completed in accordance with the requisite conditions of the consent (see attached informative).

**List of approved plans**

317-PA 100 Location and block plan, received 4 February 2021  
Planning Statement, received 4 February 2021

Reason: For the avoidance of doubt.

**Advices**

---

Case Officer: Angelo Calabrese

Authorisation:  
Peter Westbury