



South Gloucestershire Council
Department for Environment and Community Services
PO Box 1954
Strategic Planning
Bristol
BS37 0DD

21st November 2023

EMAIL ONLY

Dear Sir/Madam

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 - Application for a Lawful Development Certificate for an Existing Use

LAND NORTH OF 150 WESTERLEIGH ROAD, PUCKLECHURCH, SOUTH GLOUCESTERSHIRE, BS16 9PY

Rackham Planning Ltd is instructed by Mr D Light (*the applicant*) to submit an application for a Lawful Development Certificate (LDC) in respect of the existing use of the land to the north of 150 Westerleigh Road, Pucklechurch, South Gloucestershire, BS16 9PY (*the application site*) as residential garden land (Class C3) associated with the dwelling at 150 Westerleigh Road.

The use of the application site as private residential garden associated with the private residential use of the dwellinghouse at 150 Westerleigh Road falls within a Class C3 use as defined in the Town and Country Planning (Use Classes) Order (as amended).

The Courts have held (notably *Gabbtias v Secretary of State for the Environment [1985]*) that the relevant test of evidence in an application for a Certificate of Lawfulness is on the 'balance of probability' and if the Council have no evidence of their own to contradict or undermine the Applicant's evidence, then there is no good reason to refuse the application, provided the evidence is sufficiently precise and unambiguous to justify the grant of a Certificate.

In this respect, and in support of this application, which is submitted online via the Planning Portal (ref: PP-12611489), are the following:

1. A copy of the planning application form for a Lawful Development Certificate;

2. Supporting evidence contained within this letter and the following attachments:
 - a. Copy of the decision notice, delegated report and Site Location Plan relating to the replacement dwelling granted at no. 150 Westerleigh Road (ref: PK12/0451/F) (**attachments 1a, 1b and 2**);
 - b. Statutory Declarations from the applicant (Mr D Light) (**attachment 3**) and his wife (Mrs M Fortune) (**attachment 4**) attesting to the ancillary residential use of the land for a continuous, unbroken period of ten years.
 - c. Aerial photographs confirming the use of the land as part of the residential curtilage (**attachment 5**);
 - d. Details of the Ground Source Heat Pump sited in the land that is the subject of this application (**attachment 6**);
 - e. Photographs from the applicant (**attachment 7**);
 - f. Copy of Land Registry Title and Plan (**attachment 8**);
3. The Completed Community Infrastructure Levy (CIL) Form; and
4. The application fee of £462 (plus £64 admin fee levied by the Planning Portal) has been paid to the Council under separate cover.

Application Site and Surrounding Area

The application site is located on the eastern side of Westerleigh Road, 600 metres to the north of the settlement boundary of Pucklechurch (**image 1**). The site is located between two existing residential dwellings (**image 2**). To the south is no. 150 Westerleigh Road which was granted planning permission in 2012 (SGC ref: PK12/0451/F) for a replacement dwelling, shown in **image 3** as a well-designed, modern two storey private residential dwelling within a Class C3 use. To the north is a rank of four further dwellings, two storeys in height also in a Class C3 use. No. 150 is set back from Westerleigh Road by approximately 25m.

Images 4 – 6 show the application site which is a flat, level and broadly rectangular parcel of land, measuring approximately 80m by 40m and laid to lawn. The land forms part of the continuous extended residential garden of no. 150 to the south (**image 3**). There are ornamental trees and shrubs planted within the site and no physical fence or boundary exists between the site and the host dwelling at no. 150. The land is separated from the dwelling to the north by a post and rail fence (**image 4**). To the east is a more mature hedgerow separating the site from the agricultural land to the east (**image 6**).

On the western boundary separating the site from the main road is a mature hedgerow (**image 6**). On this boundary is an existing vehicular entrance to the site (**image 7**). To the rear of the hedgerow is a bund (visible in **image 5**) which is formed by the arisings from the construction of the replacement dwelling at no. 150.

Outside the existing vehicular site access is a bus stop (**image 8**) providing regular services to Emersons Green and Bath (via the 525 and 620 services). On both sides of the road to the south of the site are dwellings and other development off Westerleigh Road in a linear pattern as the road nears Pucklechurch (**images 1 and 2**). To the north of the application site and the neighbouring terrace of dwellings, is a property from which a pets crematorium operates, and then the bridge over the M4 motorway. Immediately east of the application site is Moor Paddock with various mobile homes and the recently built stables, which have been granted conversion to residential use July 2023,(SGC ref: P22/06238/F). To the west of the property are various mobile homes at Sloeswell Paddock (SGC ref: P19/4155/F) (**image 1**).



Image 1 – Location of the application site (source: Google maps)



Image 2 – Location of the application site (source: Google maps)



Image 3 – 150 Westerleigh Road from the application site



Image 4 – the application site with property to the north in view



Image 5 – Towards the existing gate providing access onto Westerleigh Road



Image 6 – View from entrance to rear of site



Image 7 – Existing entrance to site from Westerleigh Road



Image 8 – Bus stop outside site

Property History

The relevant planning history for the site relates to the planning permission referred to above, namely for the replacement of the existing dwelling at no. 150 to the south. Planning permission (ref: PK12/0451/F) was granted in March 2012 for a replacement dwelling. A copy of the decision notice, delegated report and Site Location Plan are submitted as **attachments 1a, 1b and 2**. The Site Location Plan (an extract of which is shown in **image 9**) confirms that the land was edged in blue, meaning that it was in the same ownership as the dwelling site but did not form part of the application site. The

application site and new dwelling at no. 150 have not changed ownership and the applicant for this lawful development certificate remains the same (i.e. Mr D Light), who owns the property and site with his wife, Mrs Margaret Fortune, as confirmed by the Land Registry Title (**attachment 8**).

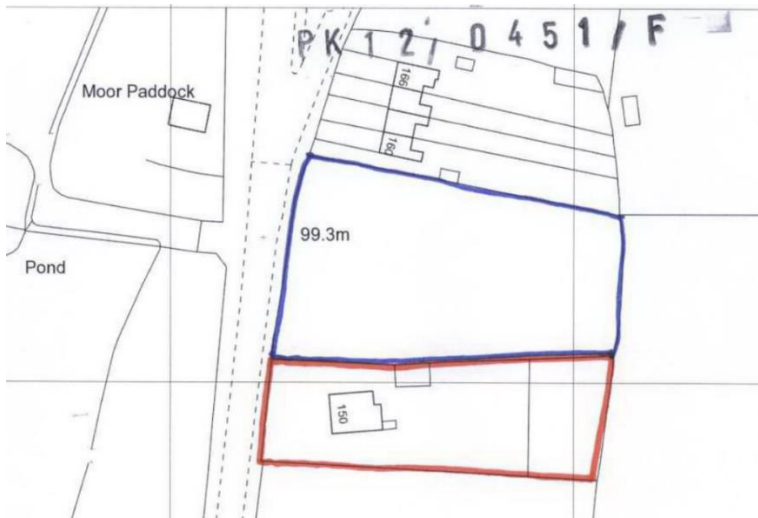


Image 9 – extract of Site Location Plan (ref: PK12/0451/F)

The delegated report supporting this decision confirmed, at paragraph 1.2, that “*the site is surrounded by fields, one of which is a paddock, **apparently used in association with the dwelling***” [Our Emphasis].

- 1.2 The site is surrounded by fields, one of which is a paddock, apparently used in association with the dwelling. These fields are divided from the site by mature hedgerows. The replacement dwelling would stand in approximately the same position and would be two storey.

Image 10 – extract from Delegated Report (ref: PK12/0451/F)

Pre-application Enquiry

A pre-application enquiry was submitted by the applicant to the Council in August 2023 (ref: PRE23/0495) for a new dwelling on the land that is subject of this application. The response, received in October 2023, suggested that the application site “*appears to be in an agricultural use*” and the proposal was assessed on this basis. This assessment, which was made without sight of the evidence accompanying this application or a site visit, coupled with comments on its unsustainable location in the Green Belt (GB), led to the conclusion that a new dwelling would not be acceptable or supported by the Council.

The use of the land is not agricultural and it has not been used for any agricultural purpose since at least 8th December 2011 when the applicant took joint ownership of the site. Therefore this application for a LDC seeks to provide evidence to conclude that, on the balance of probability, the use of the land is as private garden land, within a Class C3 use, ancillary to the Class C3 residential dwelling at 150 Westerleigh Road.

Summary of evidence in support of Lawful Development Certificate

In accordance with Section 191 of the Town and Country Planning Act 1990 (as amended), this application provides evidence to confirm that the existing use of the land to the north of 150 Westerleigh Road has been in a continuous use as residential garden land and part of the residential curtilage of no. 150, within a Class C3 residential use, as defined in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The requirements of this evidence are to conclude that, on the balance of probability, the land has been used as private garden land for a continuous, unbroken period in excess of 10 years to date.

The evidence to corroborate this includes:

- Copy of the decision notice, delegated report and Site Location Plan (SGC ref: PK12/0451/F) granted in March 2012 for a replacement dwelling at **attachments 1a, 1b and 2**.
 - This evidence confirms that the application site is within the same ownership as the residential dwelling and, in the delegated report (**attachment 1b**), includes the conclusion from the Council that the land is used in association with the dwelling (as confirmed above and in **image 10**).
- Signed Statutory Declaration from the owner (Mr D Light – **attachment 3**) and his wife (Mrs M Fortune - **attachment 4**) confirming that the site has been used as residential garden land associated with no. 150 for a continuous, unbroken period of at least 10 years since October 2013.
- Aerial photographs included as **attachment 5**.
 - The aerial photographs show that from March 2013 the application site has been physically linked to no. 150 and throughout this time has had works taking place in association with the 'host' dwelling. For example, in July 2013 a track is shown to the rear part of the site (where the GSHP is now located), welfare units are visible adjacent to the construction of the dwelling and a bund of topsoil is also visible.

- There is no fence or other boundary between no. 150 and the site.
- The Building Regs initial notice of commencement of works was dated 3rd July 2012 and final sign-off 4th December 2013. Mr Light took residency and started paying Council Tax 25th in November 2013. The north garden, the application site, was re-seeded with lawn-quality grass seed and ornamental trees and shrubs have been planted on a continuous basis since then.
- It is evident from these aerial photographs that the surrounding fields to the east, north and on the opposite side of Westerleigh Road) are farmed and ploughed throughout this period (note the appearance of the fields in March 2013, July 2013, September 2014, June 2017, April 2018, April 2020, July 2021 and July 2022). Throughout this time there has been no change in the appearance of the site confirming that it has not been in an agricultural use, contrary to the suggestion made in the recent pre-application response.
- Siting of Ground Source Heat Pump pipework laid within the rear of the application site to serve the dwelling at no. 150 (**attachment 6**).
 - The GSHP provides a sustainable heating source for the dwelling at no. 150 and was laid in the rear part of the site during the first half of 2013 and commissioned and signed off on 22nd October 2013. The aerial photos corroborate this given that in July 2013 a track can be seen around the location of the GSHP pipes after they were laid and backfilled.
- Photographs at **attachment 7** showing the rebuilding of the dwelling house at no. 150. In these photographs the application site is also visible and it is clear to see that it forms part of the residential curtilage of no. 150. It is not in any other use, least of all an agricultural one as suggested in the recent pre-application response from the Council.
- Copy of Land Registry Title at **attachment 8** confirming that the property at no. 150 and the application site are owned by the applicant, Mr D Light, and his wife Mrs M Fortune.

In view of the above, on the balance of probability, coupled with the fact that there is no evidence to contradict or undermine the evidence submitted herein, the Council are in a position to issue a Lawful Development Certificate for the Existing Use of the land to the north of 150 Westerleigh Road within a Class C3 residential use, ancillary to the dwelling at no. 150 Westerleigh Road.



I look forward to receiving confirmation that the application has been registered and its target determination date. If there are any queries relating to registration or to discuss the application during its determination, please do not hesitate to contact me via either email (address below) or telephone (07841 674794).

Yours faithfully



Stuart Rackham

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Enc. As Above

cc Mr D Light; Mrs M Fortune; R&J Consultants