

Strategic Planning and Infrastructure
Plymouth City Council
Floor 2, Ballard House
West Hoe Road
Plymouth
PL13BJ

Letter sent via: Planning Portal

11th December 2023

Dear Sir/Madam

RE: Covering Letter - Certificate of Lawfulness

The application is for a lawful development certificate (LDC) to certify that the property known as "The Annexe, 680 Wolseley Road, Plymouth, PL5 1JL" has been occupied as a single dwellinghouse for a continuous period of over 4 years continuously from 23rd March 2019 to the present day.

The Evidence of Commencement

The use of the property as a single dwellinghouse can be evidenced by a site visit as well as the supporting evidence to this LDC:

- Statutory Declaration from Karl Dunn (Occupier)

Legislative and Procedural Framework

Sections 191 and 192 of the Town and Country Planning Act 1990 (as amended) (TCPA) provide for anyone to apply to the local planning authority (LPA) for an LDC. An LDC is a statutory document certifying:

- in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition; or
- in the case of an application under section 192, the lawfulness of proposed operations on, or use of land.

By virtue of section 191(2) of the TCPA, building operations are "lawful" if no enforcement action may be taken against it and it is not in contravention of any enforcement notice which is in force.

The onus of proof in a LDC application is firmly on the Applicant. While the LPA should always cooperate with an Applicant seeking information they may hold about the planning status of land, by making records readily available, they need not go to great lengths to show that the matters specified in the application, are, or are not, lawful.

The Applicant's own evidence does not need to be corroborated by independent evidence.

The PPG advises that the LPA is entitled to canvass evidence if it so wishes before determining an application. If the LPA obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

If the LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, then there is no good reason for them to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate. In the case of LDC's the relevant test of the evidence is that it must prove, on the balance of probability, that the breach of planning control is lawful. The Applicant, in their capacity as owner and occupier of the dwelling and associated land, has provided sufficient evidence to support the application.

The sole purpose of the LDC application is to establish whether a breach is lawful or not. Planning policy is not a consideration. The LPA are only allowed to decide whether the breach is lawful or not and, if the breach is found to be lawful (and the LDC application is approved), the LPA are not allowed to attach any conditions to the LDC.

I trust that the information provided is sufficiently clear, precise and unambiguous. However, should you wish to request any further information please do not hesitate to ask.



We look forward to working proactively with the local planning authority to certify the lawfulness of the property as a single dwellinghouse.

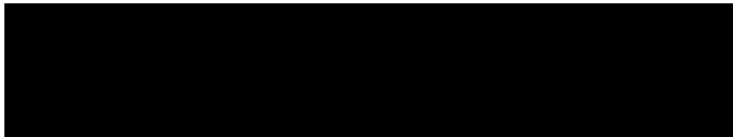
Yours sincerely,

Louis Dulling MPlan MRTPI

Chartered Town Planner

Director

Devon & Cornwall Planning Consultants Ltd



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