

PLANNING STATEMENT

Certificate of Lawfulness for two existing dormer windows

**Church House (Land rear of 1
Wokingham Road) St Helens Court
Wokingham Road
Reading RG6 1LE**

On Behalf of: Mr Heys

Report Prepared By: Lyana Radzif BSc (Hons) MSc GradCIEEM

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1. Introduction

- 1.1 This statement is produced to support a planning application for a Certificate of Lawful Development for the erection of two existing dormer windows on the flank elevation of a dwellinghouse.
- 1.2 This planning statement will introduce the meaning of 'development' in accordance with the Town and Country Planning Act 1990, which summarises the relevant legal tests and set out the application in light of these. The conclusion reached is that the development is lawful.
- 1.3 In addition to this planning statement, the application is accompanied by the appropriate certificate application forms, and the following plans by ZLA Ltd within Drawing Number 265-(A2)-00:
- 1:1250 Site Location Plan
 - 1:500 Existing Block Plan
 - 1:100 Existing Front Elevation
 - 1:100 Existing Rear Elevation
 - 1:100 Existing Side Elevation 1
 - 1:100 Existing Side Elevation 2
 - 1:100 Existing Ground Floor
 - 1:100 Existing First Floor
- 1.4 The relevant application fee will be submitted by the applicant separately.

2. Town and Country Planning Act

- 2.1 Section 55(1) of the Town and Country Planning Act 1990 defines development as 'the carrying out of building, engineering, mining or other operations in, on over or under land, or the making of any material change in the use of any buildings or other land'.
- 2.2 Section 171A 1(a) of the Town and Country Planning Act relates to the time frames in which enforcement action can be taken against breaches of

planning control. This includes *"carrying out development without the required planning permission."* Section 171B (1) relates to the breaches of planning control *"where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed"*.

- 2.3 Section 171B (1) therefore controls the relevant timeframe for the immunity from enforcement action, which means that the construction works undertaken to the dwelling becomes immune from enforcement action after a 4 year period.
- 2.4 Planning permission for the subject dwelling was granted on appeal in 2006. The dormers were added at the construction phase without express planning permission from the Council.
- 2.5 A retrospective planning application for the development was submitted by the applicant on 26 March 2008 (ref: 08/00373/FUL) which was subsequently refused on 1 October 2008 by Reading Borough Council. The dormers were therefore constructed between the 2006 appeal consent and the 26th March 2008 submission of the retrospective planning application.
- 2.6 The refusal was challenged at appeal (ref: APP/EO345/A/09/209807/WF) which was dismissed on 9 June 2009.
- 2.7 Since the above date, no communication has been made between Reading Borough Council and the applicant and no further works have been undertaken to the property.
- 2.8 As this retrospective submission exceeds the 4 year immunity period as outlined within Section 171B (1), lawfulness can be demonstrated. In this instance the lawfulness dates back to at least March 2008 when the first application was submitted, which is a period of 11 years.

- 2.9 Circular 10/97 (Enforcing Planning Control) was achieved in March 2014 and replaced by the National Planning Policy Guidance (NPPG). The NPPG reiterates the previous guidance of the Circular and in paragraph 006 states that *"the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land"*.
- 2.10 The following section outlines the evidence submitted within the Appendices and explains how this evidences immunity from enforcement action.

3. Assessment of Submitted Evidence

Appendix 1: Planning History – Full Application Decision Notice

- 3.1 Application 08/00373/FUL refusal Decision Notice dated 1st October 2008 by Reading Borough Council outlines that the full application was refused due to the site dormers being bulky and ungainly in appearance, therefore contrasting with the modest size and scale of the host dwelling. The dormers were considered to harm the character and appearance of the host building and the setting of Reading Cemetery.

Appendix 2: Planning History – Full Application Delegated Report

- 3.2 The Delegated Application Report (undated) outlines that the submitted plans for the above application were incorrectly drawn and did not reflect the reality of the development. This statement by the case officer, Ben Pratley, outlines the presence of the dormer windows in 2008, therefore evidencing the presence of the dormer windows over a period of 4 years ago.

Appendix 3: Planning History – Appeal Decision

- 3.3 Within the appeal decision, it is stated that the Site Visit was undertaken on 2 June 2009 therefore further evidencing their presence.

4. Conclusion

- 4.1 The relevant test for Lawful Development applications is the 'balance of probability.' Based on the submission of information, it is submitted that the two dormer windows on the flank elevation of the dwellinghouse have been in place for a period of 11 years, well in excess of the 4 year requirement, and are thus immune from enforcement action.
- 4.2 Under s191(2), the time for enforcement action has expired and therefore no enforcement action may be taken in respect of the development that was undertaken by 2008.
- 4.3 It is therefore submitted that the evidence meets the tests of being clear and unambiguous. On the balance of probability, it is therefore requested that the application for a certificate of existing lawful development be approved.