

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2025/09846
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	The Barn Dental And Cosmetic Clinic, Odstock, Salisbury, SP5 4JA
DEVELOPMENT DESCRIPTION:	Certificate of lawfulness (proposed use) for the re-instatement and addition of windows and door on the east elevation
RECOMMENDATION:	Certificate of Lawfulness for Proposed Development be REFUSED

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for the re-instatement and addition of windows and door on the east elevation.

The planning merits of the proposal are not under consideration. The only issue is whether the proposed works constitute "permitted development" (PD) under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter referred to as "the GPDO"].

RELEVANT LEGISLATION AND POLICY

The statutory framework governing CLP's is set out in Section 192 of the Town and Country Planning Act 1990 (as amended). This section establishes that a proposed development or use is "lawful" if it would not constitute a breach of planning control. A CLP can be granted if the Local Planning Authority is satisfied, on the balance of probabilities, that the proposed development or use would not require planning permission.

The proposal seeks to utilise permitted development rights under Part 7 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class A extensions etc of commercial business or service premises.

The submitted application form notes Part 7 Class F *extensions etc of office buildings* of the GPDO, however, this has been omitted in legislation on 01/08/2021. This has been replaced by Part 7 Class A *extensions etc of commercial, business or service premises*.

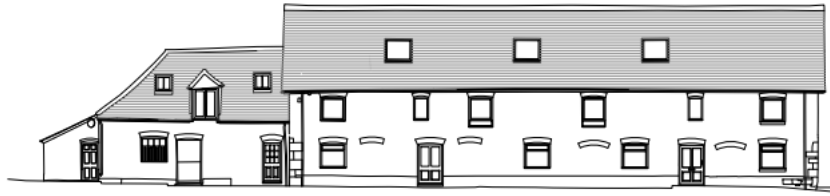
REPRESENTATIONS

There is no legal obligation to consult third parties, including Town/Parish Councils or neighbouring properties, for this type of application.

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Reference	Proposal / Summary	Decision
S/2005/0573	Change of first floor use to d1 from d2 (use in connection with ground floor dental surgery)	Approve with Conditions
S/2004/1065	To dental surgery - d1 (from d2) (yoga) and ramped access	Approve with Conditions
S/2001/1360	From yoga studio to b1 (a and b) use	Approve with Conditions
S/2000/1167	To yoga studio	Approve with Conditions
S/1995/0110	Erection of external staircase & conversion of dormer window to entrance door to serve existing offices	Approve with Conditions
S/1994/0600	To provide offices in conjunction with existing workshop	Application does not need permission
S/1993/1204	L/B application - installation of rooflights, insertion of 3 windows and 1 door, formation of kitchen on ground floor, formation of ground and first floor toilets	Approve with Conditions
S/82/0933	Re-use and alterations to the barn for use as light industrial workshop.	Approve with Conditions
S/80/0967	Form an opening in existing building for vehicles	Approve

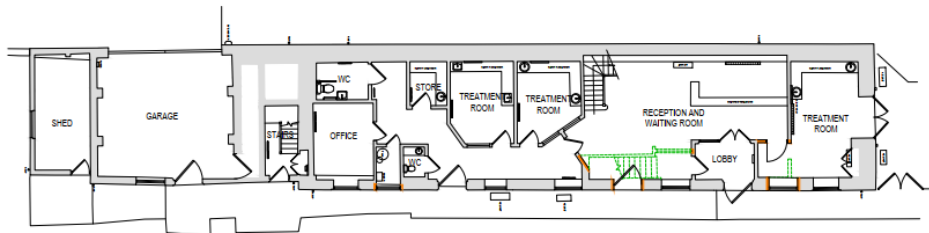


EAST ELEVATION AS EXISTING

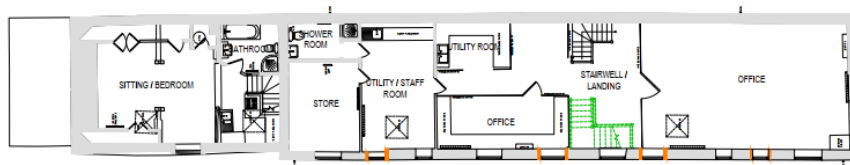


EAST ELEVATION AS PROPOSED

N - NEW R - REINSTATED E - EXISTING



GROUND FLOOR PLAN



FIRST FLOOR PLAN

ASSESSMENT AND CONCLUSION

The proposed works comprise the reinstatement of previously existing door and window openings and the formation of additional door and window openings on the ground and first floor east elevation of a two-storey building currently in lawful Class E(e) use as a dental practice. The submitted documents note that there are 2 windows and 1 door proposed to be reinstated on the ground floor. One new window is proposed to be installed on the ground floor, and three new windows are proposed to be installed on the first floor.

The submitted application form notes: *Where openings are reinstated to their historic form and position, the works represent restoration rather than development. The building envelope is retained, no extension or increase in volume is proposed, and the alterations do not conflict with any condition or restriction affecting the site.*

The proposal seeks to utilise permitted development rights under Part 7 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class A *extensions etc of commercial business or service premises*.

Development not permitted

A.1 Development is not permitted by Class A if—

- (a) the gross floor space of the original building would be exceeded by more than—*
 - (i) in respect of an original building or a development on—*
 - (aa) article 2(3) land, or*
 - (bb) a site of special scientific interest, 25% or 50 square metres (whichever is the lesser);*
 - (ii) in any other case, 50% or 100 square metres (whichever is the lesser);*

This application does not propose an extension to the building.

- (b) the height of the building as extended would exceed 4 metres;*

This application does not propose an extension to the building.

- (c) any part of the development (other than an alteration)—*
 - (i) is on land which—*
 - (aa) adjoins other premises which are used for a purpose falling within any of the classes in Part C (residential premises or institutions) of [F3Schedule 1] to the Use Classes Order,*
 - (bb) is article 2(3) land, or*
 - (cc) is a site of special scientific interest, and*
 - (ii) is within 2 metres of any boundary of the curtilage of the premises;*

The application is for an alteration (insertion of windows) therefore, this is not relevant.

- (d) the development would be within the curtilage of a listed building;*

The LPA's conservation officer provided a consultation response to assess whether the building is considered to be a curtilage listed structure and as such, a certificate of lawfulness would be inappropriate.

The conservation officer's response is as follows:

Buildings that are within the curtilage of a listed building, were ancillary to the main building (Odstock Manor) and were in the same ownership at the time of listing, could be considered to be covered by the main listing (ie Odstock Manor).

As such, I would opine that the building should be treated as curtilage listed if it were in the same ownership as Odstock Manor at the time of listing ie in 1960. I don't have this information. You will need to ask the agent.

If the proposals require consent, then I am likely to support the reinstatement of windows where there were historically windows, however, if lots of new windows have been inserted where none historically existed, I may have reservations about the peppering of an elevation with new openings on the basis that it is at odds with the prevailing character of the building.

It is possible that this building should be treated as a 'curtilage listed building', depending on the ownership of Odstock Manor and the barn in question at the time of listing ie 1960.

While we do not know if the application site was under the same ownership as Odstock manor at the time of listing, as the assessment below indicates that the proposed development could not be considered under certificate of lawfulness due to other conditions not being met, this information was not sought from the agent. However, any subsequent planning application would need to include this information if possible.

(e) any alteration would be on article 2(3) land;

The application is for alteration (insertion of windows) and lies within the Cranborne Chase & West Wiltshire Downs AONB/NL as such, it is on Article 2(3) land.

(g) any part of the development would extend beyond the front of any existing building ;

The development does not extend beyond the front of any existing building.

(h) the development would involve the insertion or creation of a new shop front or the alteration or replacement of an existing shop front; or

(i) the development would involve the installation or replacement of a security grill or shutter on a shop front.

The development would not involve the insertion or creation of a new shop front.

Conditions

A.2 Development is permitted by Class A subject to the following conditions—

(a) any alteration is at ground floor level only.

(b) any extension is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended; and

(c) any extension or alteration is only to be used as part of, or for a purpose incidental to, the use of the commercial, business or service establishment.

The alteration is for reinstating windows and doors and new proposed windows and doors on the ground floor and the insertion of new first floor windows. Therefore, development is not permitted by Class A as the alteration is not at ground floor level only.

Interpretation of Class A

A.3 For the purposes of Class A—

“ commercial, business or service premises ” means a building, or part of a building, used for any purpose within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order and includes buildings with other uses in other parts as long as the other uses are not within the parts being altered or extended;

After completing the checklist at Appendix 1 and reviewing the detailed criteria set out in Part 7 Class A and conditions along with the submitted plans, supporting documents, and an assessment of relevant constraints (including planning history, any Article 4 Directions, and planning conditions), the following conclusion has been reached:

The proposed development does not fall within the scope of permitted development, as it fails to meet one or more of the limitations or conditions set out within the relevant class(es) of the GPDO. Specifically:

A1 (d) the development would be within the curtilage of a listed building.

It is not clear if the application site is a curtilage listed building as we do not know if the application site was under the same ownership as Odstock manor at the time of listing as commented by the conservation officer. This information was not sought from the agent. However, any subsequent planning application would need to include this information if possible.

However, records show that a listed building application with reference S/1993/1204 for the installation of rooflights, insertion of 3 windows and 1 door, formation of kitchen on ground floor, formation of ground and first floor toilets was applied for in 1993.

Notwithstanding the issue on the curtilage listed status of the building, the assessment of the GPDO indicates that the proposed development could not be considered under certificate of lawfulness because of other conditions of the GPDO specifically:

A1 (e) any alteration would be on article 2(3) land

The application is for alteration (insertion of windows) and lies within the Cranborne Chase & West Wiltshire Downs AONB/NL as such, it is on Article 2(3) land.

A.2 (a) any alteration is at ground floor level only.

The alterations are not on the ground floor only, windows are proposed to be inserted on the first floor.

Therefore, the proposed development is not considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

Alongside not meeting the conditions indicated above, it is considered that the proposed new windows have a material affect on the visual appearance and character of the building. As such, a listed building consent and householder planning application is required to be submitted for the proposed works to allow the LPA to assess the proposed changes.

Therefore, planning permission is required. A depending on the ownership of the building at the time of listing listed building consent may also be required.

RECOMMENDATION

It is recommended that the Certificate of Lawfulness for Proposed Development be REFUSED for the following reasons:

Reason for refusal:

The proposed development would have a material affect on the visual appearance and character of the building. Additionally, the proposed development does not meet the requirements of criteria A1 (e), A.2 (a), or A1 (d) for permitted development under Schedule 2, Part 7 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As a result, the proposed works would not constitute permitted development.

APPENDIX 1 –

Checklist for permitted development under Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

If yes is answered to any of the below questions, then planning permission will be required for the proposal.

Constraint	Yes/No/N/A	Notes
Is there an Article 4 Direction removing PD rights for a class within which the proposal falls?	No.	
Is there a condition removing PD rights for a class within which the proposal falls?	No.	