

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2025/09976
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	Abbeyfield House, 2 Trowbridge Road, Bradford-on-Avon, BA15 1EP
DEVELOPMENT DESCRIPTION:	Application for a Certificate of Lawfulness Proposed replacement of timber sash windows with uPVC windows
RECOMMENDATION:	Refuse

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for a proposed replacement of aged timber sash windows with uPVC framed windows.

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 application has been assessed against the relevant criteria set out in Schedule 2, Part 1 Class A of the GPDO 2015 (as amended).

REPRESENTATIONS

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

RELEVANT SITE HISTORY

The site has the following relevant planning history:

W/82/00029/FUL Change of use to home seven elderly residents and ancillaries.
Approved.

W/90/01298/FUL Two storey extension to form kitchen, dining facilities and additional bed sit accommodation. Approved.

ASSESSMENT AND CONCLUSION

Permitted development rights have not been removed within the 1982 permission and so are intact.

The site is a property known as Abbeyfield House which is a detached two storey building located on the Trowbridge Road, in Bradford on Avon and lies within a Conservation Area. Its described established use within the application is that of sheltered housing for its residents.

For the accommodation to qualify as sheltered housing there has to be an independent form of living accommodation taking place, such as with a flat or apartment which has its own cooking (kitchen) and bathroom facilities. This independent type of residential use falls within Use Class C3 of the Use Classes Order 2020.

However, whilst the accompanying information describes the use as sheltered housing, the layout of the rooms indicates a different type of use. The accommodation provision shows a number of individual rooms with many of the 12 rooms sharing facilities, such as a shower room and w.c. provision. Likewise, the whole of the building has just one kitchen at ground floor level together with a communal dining room, all of these factors indicate a nursing home use (Class C2) and not that of independent sheltered accommodation. It is the case that use C2 does not have permitted development rights and so planning permission is required for the proposed windows.

The cited planning history also indicates a nursing home use.

Whilst the use is appraised as being C2 (residential accommodation), if the use was accepted as C3 (which it is not) then Part 1 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) would be applicable.

Officers reviewed the detailed criteria set out in Schedule 2 Part 1 Class A parts (a) to (l), but the proposal was found not to accord with the conditions within Part A3 (b)(i, ii) which states:

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—

(i)obscure-glazed, and

(ii)non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed;..

The proposed details within the plans for the windows do not show any obscured glazing, nor the permanent closed nature of the windows.

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:

The accommodation at Abbeyfield House is appraised as being of C2 Use Class (residential accommodation) and so does not have any permitted development rights. And within a Class C3 residential accommodation:

Fails to comply with Schedule 2 Part 3 (b)(i, ii) which states that:

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—

(i)obscure-glazed, and

(ii)non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

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

RECOMMENDATION

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

Reason for refusal: The use of Abbeyfield House is that of Class C2 Residential Use within the Use Class Order 2024 and the proposed development requires planning permission when tested against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).