

Planning Report

Certificate of lawfulness of existing use and development (CLEUD)

1. This is an application under section 191 of the Town and Country Planning Act 1991 for a certificate of lawfulness of an existing residential use of a building within the curtilage of a dwellinghouse.
2. The Applicant, Jane Fletcher, is the owner and occupier of Hill House. Hill house, Sibford Ferris, Banbury, OX15 5RA is shown edged in red on the attached 'Land Registry Current Title Plan' ("Hill House").
3. Hill House is the main dwelling house and is the building on the northern boundary of the 'Land Registry Current Title Plan'. The Shed, which is the subject of this application is the oblong building on the south boarder coloured brown ("the Shed"). Attached, is also the 'Indicative Plan' to provide more detail to the location of the buildings.
4. The Shed, is ancillary or incidental to the enjoyment of the dwellinghouse, in that, it is used as a study and accommodation for friends and family of the Applicant.
5. The Applicant has recently carried out essential updating and repairing works to the building so that it is a more efficient building. It was previously heated by electric heaters, now that the building has been properly insulated and the windows have been replaced (for energy efficient ones) the Applicant is intending to install an air-source heat pump. The Applicant has also extended the water supply from the main dwelling to the Shed, so that a sink and toilet can be fitted. It is considered that none of these works require planning permission and this application is not seeing to gain planning permission in respect of development.
6. The Shed falls within the curtilage of the dwellinghouse and is thought to have been built over two hundred years ago at the same time as the main dwellinghouse was extended. It was built with the intention of forming part of the main dwellinghouse and has always been within the same ownership.
7. The use also falls within Class E of the Town and Town and Country Planning (General Permitted Development) (England) Order 2015. Schedule 2. Part 1. Which states:

*'The provision within the curtilage of the dwellinghouse of—
(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure..'*

8. It is considered that the existing use is lawful. There is no outstanding enforcement action and the existing use is not in breach of any planning conditions. Should Cherwell District Council consider the existing use to be unlawful, the time period for taking enforcement action has now expired and therefore the certificate of lawfulness must be granted in any event, as a matter of law.
9. This application has been made in consideration of Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and for your ease it includes a draft Certificate for issue (see attached).
10. It is for the Cherwell District Council as the Planning Authority to determine whether, on the facts of this case, this matter is lawful. The issue of a CLEUD depends entirely on factual information about the history and planning status of the use. Planning considerations cannot be taken into account in determining whether or not to grant the Certificate.
11. This application provides evidence by way of witness statements from:
 - a. The Applicant;
 - b. David Dyer, the previous owner and occupier of Hill House; and
 - c. Sue Etherington-smith the next door neighbour to Hill House, owner and occupier of Dower House shown on the Land Registry Current Title Plan.
12. We have also included the Land Registry Freehold title of Hill House to evidence that the Shed and dwellinghouse are in the same ownership.
13. We consider that this evidence is sufficient to prove, on the balance of probability, that the Shed is lawfully used as an extension to the main dwellinghouse and that a CLEUD ought reasonably to be issued. For further guidance on this test please see ([*F W Gabbitts v Secretary of State for the Environment and Newham LBC \[1985\] JPL 630*](#)).
14. Should you require any further information, or clarification on the documentation submitted, in order for you to issue the certificate please do not hesitate to get in contact.