

Delegated Decision Report

Application No:	25/0244	Statutory Period Expires:	22nd May 2025
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Site:	8 Clyffard Crescent Newport NP20 4GE		
Proposal:	CERTIFICATE OF LAWFUL DEVELOPMENT FOR EXISTING USE AS A HOUSE IN MULTIPLE OCCUPATION (USE CLASS C4)		
Applicant:	Simmons		
Type:	Lawful Development Existing	Ward:	Stow Hill
Decision:	ISSUED		

1. BACKGROUND

1.1 None.

2. SITE LOCATION AND CONTEXT

2.1 8 Clyffard Cresent is a mid-terraced, three storey dwelling, located in the Stow Hill ward.

3. DESCRIPTION OF DEVELOPMENT

3.1 The proposal seeks confirmation of the lawful use of the building as a 4no bedroom HMO. The basement contains the kitchen, a bedroom, a shower and toilet and access to the garden. The ground floor contains a communal lounge and a bedroom. The first floor contains two bedrooms and a bathroom.

4. RELEVANT SITE HISTORY

None.

5. PLANNING POLICY

5.1 NONE.

6. CONSULTATION RESPONSES

6.1 None.

7. PUBLIC REPRESENTATIONS

None.

8. ASSESSMENT

8.1 This application seeks to confirm the lawful use of the 8 Clyffard Cresent as a 4no bedroom HMO.

8.2 As this is an application for a Certificate of Lawfulness, the planning merits of the development is not in question. The consideration of the application is based on the evidence submitted to prove the claim for lawfulness, and, as such, there are no planning policies of relevance. Notwithstanding this, the application has been considered with regard to Welsh Office Circular 24/97 'Enforcing Planning Control: Legislative Provisions and Procedural Requirements', in particular Annex 8 on Lawfulness and the Lawful Development Certificate (LDC).

8.3 In view of the basis on which the certificate of lawfulness is sought (10 years continuous use), the principal issue to consider in this certificate of lawfulness application is whether the evidence submitted with the application is sufficient to demonstrate that 8 Clyffard Crescent has continuously been used as a HMO.

8.4 Paragraph 8.12 of Circular 24/97 notes that the onus of proof in a LDC application is with the applicant. It also notes that the LPA should always co-operate with an applicant seeking information they may hold. The relevant test of matters relating to applications for a Certificate of Lawful Use as detailed within the 1990 Act, is the '*balance of probability*'. Local Planning Authorities are advised that if they have no evidence of their own to contradict or undermine the applicant's version of events, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate.

8.5 **Evidence Submitted**

8.5.1 **Floor Plans**

The application has been submitted with floor plans, elevation and section drawing showing the arrangement of development over all floors of the building.

8.5.2 **Statutory Declaration**

The applicant has provided a statutory declaration signed by the owners of 8 Clyffard Crescent confirming that the property has been continuously occupied as a 4 bedroom 5 person HMO (C4 use) for the last 10 years.

8.5.3 **HMO License**

The applicant has provided a copy of two HMO licenses; the first license was granted on 3rd of July 2016 and expired on 3rd of July 2021, and the second license was granted on the 4th of July 2021 and will expire on 3rd of July 2026.

8.5.4 **Council information**

In terms of the existing property, the officers site visit to 8 Clyffard Crescent did show that the property had multiple bedrooms, a kitchen, and a bathroom, and a toilet.

When enquiring with council tax, it was found that the property is a band c residential property, but has been vacant since 11/10/24. The owner contacted council tax in March 2025 to say that it would be let shortly.

8.5.5 **Solicitor's Comments**

The applicant has provided a planning statement which claims that smaller HMO's had been included within use class C3 prior to February 2016, which the solicitor does not agree with. The planning statement also states that the property has to be shown as being in C4 use either prior to February 2016 or for a continuous period of 4 years. However, it should be noted that a number of appeal decisions have confirmed that the correct period for immunity from enforcement in this instance is 10 years rather than the 4 suggested by the applicant.

However, the applicant has provided a planning statement, a site location plan, a statutory declaration from the legal owners, a layout drawing of the property, the cover page of two

tenancy agreements between the owners and Clearsprings Ready Homes Limited (a short term accommodation provider) from between 29 September 2014 and 4 April 2019, and between 1 April 2019 and 1 September 2026, and HMO licenses dated 1 August 2011, 3 July 2016 and 4 July 2021. Therefore, there is sufficient evidence to support the granting of the certificate based on the balance of probabilities.

9. OTHER CONSIDERATIONS

9.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

9.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

9.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

9.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

9.5 *Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

9.6 *Newport's Well-Being Plan 2018-23*

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

10. CONCLUSION

- 10.1 The applicants have provided sufficient evidence to demonstrate that, on the balance of probability, 8 Clyffard Crescent has been used as a 4 bed HMO (C4) for a continuous period of 10 years.

**11. DECISION
ISSUED**

01 It is concluded that the building has been used as a 4 bed HMO under C4 use class for at least the last ten years and therefore is lawful under section 191 of The Town and Country Planning Act 1990.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Site Location Plan, Statutory Declaration, Planning Statement, Standard Tenancy Agreement, HMO Licence, Site Plan.

02 The Town and Country Planning Act 1990 Section 191. Certificate of lawfulness of existing use or development was relevant to the determination of this application.