



LRJ PLANNING

Planning, Design and Development

PLANNING STATEMENT

SCHEME: CERTIFICATE OF LAWFULNESS (EXISTING USE) APPLICATION

SITE: 8 CLYFFARD CRESCENT, NEWPORT, NP20 4GE

CLIENT: MR NIGEL JOHN SIMMONS AND MRS TRACEY AMANDA SIMMONS

DATE: MARCH 2025



1.0 INTRODUCTION

- 1.1 This Planning Statement has been prepared by LRJ Planning Ltd to support an application for a Certificate of Lawfulness (Existing Use).
- 1.2 In terms of the legal scope of the application, the application is made in respect of Section 191(2) of the Town and Country Planning Act 1990. Whilst there is no compulsion to apply for an LDC where a use is lawful, the applicant would like to formally establish with the local planning authority the use of 8 Clyffard Crescent, Newport, NP20 4GE as a 4 bedroom 5 person House in Multiple Occupation (HMO) (C4 Use).
- 1.3 In order to obtain a certificate of lawfulness it is necessary to comply with the time limits under the Planning and Compensation Act 1991. This introduced rolling time limits within which local planning authorities can take planning enforcement action against breaches of planning control. The time limits are:
 - a) four years for building, engineering, mining or other operations in, on, over or under land, without planning permission. This development becomes immune from enforcement action four years after the operations are substantially completed.
 - b) four years for the change of use of a building, or part of a building, to use as a single dwelling house. Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken.
 - c) 10 years for all other development (most commonly unauthorised material change of use or breach of condition).
- 1.4 Notwithstanding the above, in 2015 the Welsh Government commissioned a study into the impact of houses in multiple accommodation (HMOs) concentrations on local communities in certain areas across Wales. The research recommended that the definition of a HMO be changed and that the Town and Country Planning (Use



Classes) Order 1987 be amended to give Local Authorities the power to manage the development of HMOs with fewer than seven residents, which previously would not have required planning permission.

1.5 From February 2016, in Planning, HMOs can be broken down into two different definitions:

a) Small HMOs refer to 3 to 6 unrelated persons who share basic amenities. This is classed as planning Use Class C4. Changes of use to C4 Use Class require planning permission.

b) Large HMOs refer to properties with 7 or more unrelated persons. They do not fall within any use class and are treated as 'Unique Uses (formerly sui generis - meaning 'of their own kind')'. Changes of use to a Unique Use HMO also require planning permission.

1.6 Since their creation as a planning use class in February 2016, smaller (C4) HMO's have required planning permission. This changed the definition of HMOs within the planning system effectively introducing the existence of smaller HMO's which until this date had been included in the C3 use class. As a general rule, if a property was used as a HMO prior to February 2016, there would be 'no change in use' if it can be demonstrated that the property was already being used for that purpose. For the purpose of this application, it has to be proven that the property has been used as a HMO (C4 use) either prior to February 2016 or for a continuous period of 4 years, without being used at any point as a C3 dwelling.

1.7 The Courts have held that any application of this nature requires the applicant to show "on the balance of probability" the use is a lawful one and that the test in criminal law of "beyond reasonable doubt" must not be applied. Furthermore, the Courts have held that the appellant's own evidence does not need to be corroborated by "independent" evidence to be accepted. (FW Gabbittas Vs SSE and Newham LBD [1985] JPL630).



2.0 RELEVANT TIME PERIOD

- 2.1 The description of the existing lawful use asserted is the 'use of property as a C4 House in Multiple Occupation (HMO)' and that was the lawful use of the property in February 2016.

3.0 EVIDENCE SUBMITTED PROVING THE LAWFUL USE

- 3.1 Critically for the purposes of this application in February 2016, when the use classes changed, the property was in a lawful use as a HMO (C4 use). Notwithstanding this, the property has been continuously used as a HMO (C4 use) for the last 10 years.
- 3.2 The following evidence provided with this application comprises the following:

Statutory Declaration

- Statutory declaration from Mr and Mrs Simmons – the current owners of the property

Covering Information - EXHIBIT 1

- OS Map and floor plans

HMO Licences – EXHIBIT 2

- HMO licence – Dated 1st August 2011
- HMO licence – Dated 3rd July 2016
- HMO licence – Dated 4th July 2021

Tenancy Agreements – EXHIBIT 3

- Tenancy agreements – 2019 to 2026



- 3.3 As a general rule, if a property was used as a HMO prior to February 2016, there would be 'no change in use' if it can be demonstrated that the property was already being used for that purpose. The above provides a full picture and time record of the situation since 20th October 2011 to the date of this application.
- 3.4 The application demonstrates that on the balance of probability based upon the evidence submitted that the property the subject of this application was in use as HMO (C4 use) in February 2016. Indeed, it is clear from the statutory declaration from the current owners that the property has been in use as a 4 bedroom 5 person HMO (C4 use) since 20th October 2011 and this use has been continuous.

4.0 Conclusion

- 4.1 As outlined above, the relevant test of the evidence submitted in respect of a Certificate of Lawfulness is whether on the balance of probability, the use or development is a lawful one. The written evidence submitted with this application demonstrates that the property known as 8 Clyffard Crescent, Newport, NP20 4GE has been in use as a HMO (C4 use) since 20th October 2011 . At the time of the change of the use classes in February 2016, the lawful use of the property is as a 4 bedroom 5 person HMO (C4 use) and the licenses and tenancy agreements held for this period corroborate this. There is therefore no reason for the Local Planning Authority to withhold a Certificate of Lawfulness in this instance.