

Delegated Decision Report

Application No:	25/0462	Statutory Period Expires:	13th August 2025
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Site:	4 Fields Road Newport NP20 4PL		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE (EXISTING) FOR THE USE OF THE PROPERTY AS A 8 BEDROOM HMO (SUI GENERIS)		
Applicant:	Mr F E Mendoza Contreras		
Type:	Lawful Development Existing	Ward:	Allt-yr-Yn
Decision:	ISSUED		

1. BACKGROUND

1.1 13/0415: CHANGE OF USE FROM RESIDENTIAL PROPERTY TO HOUSE IN MULTIPLE OCCUPATION (8 BEDROOMS)

Refused

01 The proposal would result in additional parking demand which cannot be accommodated within the site, to the detriment of highway and pedestrian safety and residential amenity, contrary to Policy H4 (Conversions) of the Newport Unitary Development Plan 1996 – 2011 (Adopted May 2006), Supplementary Planning Guidance – Flat Conversions and Houses in Multiple Occupation (Adopted June 2006) and the Newport Parking Standards (2012) and Draft Supplementary Planning Guidance – Houses in Multiple Occupation (August 2012).

2. SITE LOCATION AND CONTEXT

2.1 The host site is a semi detached three storey property including a converted loft. The property fronts onto Fields Road and does not accommodate any off-road parking. The houses within the vicinity are characterised with gable features and small front gardens. Opposite the host site to the South is an office building and to the North, Queens Hill redevelopment housing site.

3. DESCRIPTION OF DEVELOPMENT

3.1 This is an application under Section 191 of the Town and Country Planning Act 1990 (as amended) for a Certificate of Lawfulness to formally establish that 4 Fields Road has operated as a house in multiple occupation (8no. bedrooms) for more than 4 years, and thus would be immune from any enforcement action.

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision	Decision Date
13/0415	CHANGE OF USE FROM RESIDENTIAL PROPERTY TO HOUSE IN MULTIPLE OCCUPATION (8 BEDROOMS)	R	09/05/2013

5. PLANNING POLICY

5.1 THE NATIONAL DEVELOPMENT FRAMEWORK: FUTURE WALES - THE NATIONAL PLAN 2040

Future Wales sets out the Welsh Government's land use priorities and provides a national land use framework for SDPs and LDPs. Future Wales concentrates on development and land use issues of national significance, indicating areas of major opportunities and change, highlighting areas that need protecting and enhancing and helping to co-ordinate the delivery of Welsh Government policies to maximise positive outcomes.

Policy 1 - Where Wales Will Grow

Policy 2 - Shaping Urban Growth and Regeneration - Strategic Placemaking

Policy 9 - Resilient Ecological Networks and Green Infrastructure

5.2 PLANNING POLICY WALES (EDITION 12) 2024

3.3 - Good design is fundamental to creating sustainable places where people want to live, work and socialise.

3.4 - Meeting the objectives of good design should be the aim of all those involved in the development process and should be applied to all development proposals at all scales.

5.3 Circular 24/97: Enforcing planning control: Legislative Provisions and Procedural Requirements'.

5.4 Section 191 of the Town and Country Planning Act 1990 (as amended).

6 ASSESSMENT

6.1 Principle of Development

This is an application under Section 191 of the Town and Country Planning Act 1990 (as amended) for a Certificate of Lawfulness to formally establish that 4 Fields Road has operated as a house in multiple occupation (8no. bedrooms) for more than 4 years, and thus would be immune from any enforcement action. Under section 171b (3) of the 1990 Town and Country Planning Act, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach of planning control. In this case, the breach consists in the unauthorised change of use of the property.

6.2 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).

6.3 In view of the basis on which the certificate of lawfulness is sought (4 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 the building has been continuously occupied as a 8no. bedroom HMO for a period in excess of four years without deviation or a break in use prior to the submission of the application.

6.4 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.

6.5 Evidence submitted with the application from the applicant

6.5.1 Application form

The application form states that the use of the dwelling as a HMO commenced on 12th October 2013. The current landlord bought the property in 2018. The applicant has stated the use as C4. (However, this has since be revised to 8no.bedrooms for a 4 year period).

6.5.2 HMO Licensing

The applicant has provided HMO licenses from:

- September 2013 detailing no more than 6 residents.
- July 2017- September 2022 detailing no more than 6 residents.
- September 2022- September 2027 detailing no more than 8 residents.

6.5.3 Floor Plans

- 2no.bedrooms at ground floor
- 4no.bedrooms at first floor
- 2no.bedrooms at second floor

6.5.4 Utility bills and service certificates

- These are addressed to 4 Fields Road as one address.
- Council Tax bills
- Utility bills
- Boiler insurance, PAT testing etc.,
- End of tax year records

6.5.5 Tenancy Agreements/contracts

Dates include:

- November 2014- February 2015
- March 2016-March 2017
- March 2016- April 2016
- July 2016- November 2016
- June 2017 (6 month contract)
- December 2019- January 2020
- February 2020- May 2020
- February 2020- August 2020
- June 2020- December 2020
- July 2020- October 2020
- September 2020- September 2021
- October 2021- April 2022
- September 2021- April 2022
- January 2022- July 2022
- July 2022 (6 Month contract)

- December 2022- January 2023
- December 2022- June 2023
- January 2023- October 2023
- January 2023- July 2023
- March 2023- September 2023
- April 2023- October 2023
- April 2023- October 2023
- April 2023- September 2023
- October 2023- April 2024
- February 2024- August 2024
- April 2024- October 2024

6.5.6 **Rent Payment to Cwtch Property**

Cwtch property have provided agreements and payments made from the 8no. bedrooms since they took over at the beginning of 2023 up until present day. It is noted that payments have been made for 8no. rooms within this period. Some months there are a couple of payments that have not been made for a specific room, however, the payments are then resumed either a month or two later.

6.5.7 **Spare room**

The applicant has provided details from Spare room which details advertisements for rooms to rent from 04/05/2018 until 27/05/2025.

6.5.8 **Rent payment contracts through Cwtch Property for HMO**

Payment contracts made from tenants to the agents spanning the majority of 2023- current 2025.

Signed contract between agent CWTCHPROPERTY and landlord on the letting agent contract as a HMO- December 2022.

6.5.9 **Landlord**

June 2017 Landlord certificate to state that landlord of:

Room 1 - 4 field Road-NP20 4PL Room 2 - 4 field Road-NP20 4PL Room 3 - 4 field Road-NP20 4PL Room 4 - 4 field Road-NP20 4PL Room 5 - 4 field Road-NP20 4PL Room 6 - 4 field Road-NP20 4PL Room 7 - 4 field Road-NP20 4PL Room 8 - 4 field Road-NP20 4PL

Further Landlord license for the current landlord from 2018.

6.5.10 **Bank statements**

Numerous bank statements from 2017- present day detailing payments. Landlord has declared that From 2017 until 2022 tenants were paying directly to the applicants bank account. After that an Estate Agent manages the property.

The applicant has provided a spreadsheet with payments made from each bedroom from July 2021 up until December 2022 and corresponding bank statements.

Between 7-8 payments each month were made from residents from each room.

Apart from December 2022 where 5 payments were made, however, the applicant has stressed this was a transition period to Cwtch Property and has claimed that

some residents did not pay that month. Contracts have also been provided within this period.

6.5.11 Statements

- The landlords cleaners statement declaring cleaning HMO since 2021 to present day
- Owner of 5 Fields Road statement confirms the longstanding use of 4 Field Road, NP20 4PL as a House in Multiple Occupation (HMO) before the landlord bought it in 2017. To the best of my knowledge the property has operated as an HMO since approximately 2013.
- Previous tenant confirms the property was operated as a House in Multiple Occupation (HMO). During my time as a tenant from August 2022 to August 2023.
- Current residents have signed statements to declare the use as a HMO from rooms 1,2,5,7,8. Dated 30th May 2025

Emails

- 'Spare Room' company email June 2017. Company confirmed via email the landlord used the website to advertise the property as a HMO.

6.6 Councils Evidence

6.6.1 Council Tax

Property is a band F assessment and has been in Ctax valuation list since at least 01.04.1997. Currently marked as a HMO with the owner liable for the ctax charges since July 2013. Current owner bought property 31.05.2017 and told us property would continue as a HMO as tenants remained following purchase of property.

6.6.2 Site visit

A site visit was undertaken at the property and 8no. rooms were in use at the time of the visit on 23rd July 2025.

6.7 Assessment

Local Planning Authorities are advised if there is not sufficient evidence which undermines the applicant's version of events or the evidence provided is insufficiently precise, there is no good reason to refuse the application.

6.8 The application form claims that the use of the unit as a HMO started on 12/10/2013. The application form also suggests that the applicant is trying to prove the use as a C4 use, however, this has since be rectified as the applicant is demonstrating the property has been used as a 8no bedroom HMO for at least the past 4 years. The applicant has provided an array of information including, bank statements, tenancy agreements, utility bills, insurance certificates, landlord certificates, spare room emails etc.,

6.9 When assessing the information to prove that the unit has been used as an 8no. bedroom HMO for more than 4 years, it is considered that the letting agents which took

over the unit at the beginning of 2023 have provided clear evidence that there have been 8no.bedrooms within the unit and payments and tenancy agreements signed up until present day. While there have been some rooms which have experienced one or two payments missing on some months, it is noted the agent has confirmed that the rooms were advertised on spare room and the rooms have then been let out the following months, and this has been confirmed from Spare room. Additionally, a HMO license was granted in September 2022- September 2027 detailing no more than 8 residents can reside within the unit. From a site visit, it was shown that 8no.bedrooms were in the property and being used on the 23rd July 2025. There is sufficient evidence provided to demonstrate that the property has been clearly used as a 8no bedroom HMO since 2023 to present day.

- 6.10 Prior to 2023, before the letting agents took control, the applicant received payments directly into his bank account from tenants. To prove that the unit has been used as a 8no. bedroom HMO for a period of more than 4 years, information from July 2021 until December 2022 should be accounted for. The applicant has provided tenancy agreements and bank statements from July 2021 up until December 2022. The contracts provided indicate the presence of tenants within the property; however, they do not show a continuous tenancy for all eight bedrooms throughout the entire period. Based on the payment records and corresponding bank statements, it is evident that payments were made for all eight bedrooms from July 2021 to December 2022, with the payee names matching those listed in the contracts. While the contracts themselves do not demonstrate consistent tenancy, the payment history suggests that the tenancies may be on rolling contracts and payments demonstrate this. It is noted that the property did benefit from a HMO license, however, this license was granted from July 2017- September 2022 detailing no more than 6 residents in the property. Given the evidence from bank statements and tenancy agreements, it can be shown that within this period, 8no.bedrooms were present within the property and made payments, and therefore, sufficient evidence has been provided to the contrary of the licence.
- 6.11 Further evidence from council tax demonstrates that the property is currently marked as a HMO with the owner liable for the ctax charges since July 2013. The current owner bought property 31.05.2017 and told Council Tax the property would continue as a HMO as tenants remained following purchase of property.
- 6.12 On the balance of probability, the evidence submitted is considered to show the use as a 8no. bedroom HMO for more than 4 years is satisfied. Whilst some payments are sporadically missing on certain rooms for a month or two period, it is considered that the applicant has provided sufficient evidence to demonstrate that the rooms were advertised on Spare Room and then occupied subsequent months. The use is lawful and a Certificate of Lawfulness under section 191 of The Town and Country Planning Act 1990 (as amended) is thereby issued.

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. This duty has been considered in the evaluation of this

application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

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 In conclusion, it is considered that on the balance of probabilities, the applicant has provided sufficient information to demonstrate that the property has been used as a 8no. bedroom HMO for a period of more than 4 years and therefore, the LDCE is issued.

11. DECISION

ISSUED

Sufficient information has been provided to establish on the balance of probabilities that the accommodation arrangement as submitted for an 8no.bed House in Multiple Occupation (Sui Generis) at 4 Fields Road has been used for a period of more than

four years. The use is lawful and a Certificate of Lawfulness under section 191 of The Town and Country Planning Act 1990 (as amended) is thereby issued.

NOTE TO APPLICANT

01 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015).

02 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.