

Application Reference Number:	2025/0707
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Application Type:	<i>Lawful Development Certificate – Existing.</i>
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Proposal Description:	<i>Certificate of existing lawful use for change of use from office to HMO (Use Class C4) at first floor comprising 6-bedrooms (Amended Description).</i>
Location:	<i>24A Wellington Street, Barnsley, S70 1SS.</i>

Applicant:	<i>Cliffmeur Properties Ltd.</i>
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Third-party representations:	<i>None.</i>	Parish:	
		Ward:	<i>Central.</i>

Summary:
<p>This lawful development certificate application seeks confirmation that an existing change of use from an office to HMO (Use Class C4) at first floor comprising 6-bedrooms is lawful and does not require planning permission.</p> <p>Based on the information submitted by the applicant, the LPA determines that 10-year use has been demonstrated in accordance with Paragraph 1(a) of Section 171B of the Town and Country Planning Act 1990 (as amended), which sets out the time limit in which enforcement action can be taken in the case of a breach of planning control in England. Moreover, the LPA has no evidence of its own, or from others, to contradict or otherwise make the applicant’s version of events less than probable, and therefore there is no good reason to refuse the grant of a certificate “on the balance of probability”. As such, the existing change of use from an office to HMO (Use Class C4) at first floor comprising 6-bedrooms is lawful, and this lawful development certificate should be granted.</p> <p>Recommendation: GRANT.</p>

Section 191(4) of the Town and Country Planning Act 1990 states that if, on an application under this section, the LPA are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the LPA or a description substituted by them, the LPA shall issue a certificate to that effect; and in any other case shall refuse the application.

Guidance states that if an LPA has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, 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 "on the balance of probability". This reflects ministerial advice that was formerly printed in Annex 8 to Circular 10/97, at paragraph 8.15. 'Evidence' from neighbours, or others objecting to the application, consisting of no more than doubt, disbelief or scepticism regarding the evidence adduced by the applicant does not amount to evidence contradicting or otherwise making the applicant's evidence less than probable.

A full award of costs is liable to be made on appeal under Section 195 of the Town and Country Planning Act 1990 against an LPA which refuses a certificate of lawfulness in ignorance or defiance of the rule in *Gabbitas*.

Normally, development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Class Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule is permitted development under Schedule 2, Part 3, Class L(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Class C4 (houses in multiple occupation) are defined as small, shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

Barnsley Metropolitan Borough Council (BMBC) made an Article 4 Direction on 14th May 2020, under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

The Article 4 Direction (Article 4 Direction 1/2020) relates to development set out in the First Schedule below and removes permitted development rights for this type of development from the Land identified in the Second Schedule. Planning permission will therefore be required for development comprised within the First Schedule for the Land identified in the Second Schedule.

First Schedule

Development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) to a use falling within Class C4 (Houses in Multiple Occupation) of that Schedule and removes permitted development rights for this type of development from 23rd May 2021. This being development comprised within Class L(b) of Part 3 of Schedule 2 of Town and Country Planning (General Permitted Development) (England) Order 2015. Planning permission will therefore be required for any change of use from Class C3 (dwellinghouses) to Class C4 (houses in multiple occupation) once the District Wide Article 4 Direction is in force.

Second Schedule

All that land known within the administrative boundaries of Barnsley Metropolitan Borough Council as shown edged red on the Plan to the Direction.

The Direction came into force on 24th June 2021.

Notwithstanding the above, this LDC application relates to the change of use of an office to a 6-bedroom HMO (Class C4) and therefore, could not have been implemented as permitted development under Class L(b) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) prior to the Article 4 direction coming into force on 24th June 2021.

A 10-year use must therefore be demonstrated in accordance with Paragraph 1(a) of Section 171B of the Town and Country Planning Act 1990 (as amended), which sets out the time limit in which enforcement action can be taken in the case of a breach of planning control in England.

Consultations

There is no statutory requirement for a Local Planning Authority to consult third parties on a lawful development certificate application, including neighbouring residents or parish councils since such applications are a matter of fact and law and are not determined on planning merits or judged against national and local planning policies and guidance. Nonetheless, the application was made available online and no representations were received.

Legal	<i>Comments were provided to obtain further evidence and set out what types of evidence could be accepted.</i>
Case Management Officer	<i>Our records indicate this property was first inspected for use as a 6-bedroom HMO on 09th November 2015. Due to the building being two-storey, it did not meet mandatory licensing requirements at the time. After changes to legislation, the first HMO licence was granted on 18th December 2018. The current second licence was granted on 17th January 2024. I have no objection to the issue of this lawful development certificate.</i>
Planning Enforcement	<i>There has been no involvement with this property.</i>
Local Ward Councillors	<i>One objection received raising concerns regarding HMO concentrations, no available parking, bin collection and social cohesion.</i>

While one objection was received from a Local Ward Councillor, and the concerns raised are acknowledged, the concerns cannot be considered during the determination of this lawful development certificate application for the above reasons in that such applications are a matter of fact and law and are not determined on planning merits or judged against national and local planning policies and guidance.

Assessment

This application relates to an existing change of use from an office to a 6-bedroom HMO with en-suites and shared basic amenities comprising shared kitchen, dining and communal spaces (Class C4).

A change of use of an office to a 6-bedroom HMO (Class C4) could not have been implemented as permitted development under Class L(b) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) prior to the Article 4 direction coming into force on 24th June 2021, and therefore, a 10-year use must be demonstrated in accordance with Paragraph 1(a) of Section 171B of the Town and Country Planning Act 1990 (as amended), which sets out the time limit in which enforcement action can be taken in the case of a breach of planning control in England.

During the application process, additional evidence was sought from the applicant to demonstrate a lawful 10-year continuous use. This LDC application is supported by:

- A Building Regulations Notice of Condition Approval for the proposed conversion of existing offices for 6 occupants with shared kitchen/dining dated 8th December 2014;
- An Electrical Building Regulations Certificate of Compliance dated 21st September 2015;
- A Sound Insulation Testing Report dated 11th September 2015;
- A Building Regulations Certificate of Completion for the proposed conversion of existing offices for 6 occupants with shared kitchen/dining dated 12th November 2015;
- Council Tax records showing a change from a non-domestic rate to Council Tax band A dated between 2014 – 2023;
- Email correspondence between Cliffmeur Properties Ltd, Beecroft Estates and G8 Property dated between September 2015 – 2018, including a screenshot of a social media advertisement to let the available rooms from G8 Property dated 2nd October 2015;
- Invoice and remittance details for various rooms dated between 8th October 2015 – 28th March 2023;
- Tenancy Agreements dated between 2023 – 2025;
- Mandatory HMO License for 6 people dated 18th December 2018;
- HMO License for 6 persons dated 4th December 2023 and valid for 5 years.

The issuing of the HMO licenses was confirmed by the Council's Case Management Officer, and the submitted invoice and remittance details and tenancy agreements alongside other submitted evidence demonstrates a continued inhabited use from at least 8th October 2015 to present.

Considering the above, the LPA is satisfied with the supporting information submitted by the applicant to demonstrate the lawful existing change of use from an office to HMO (Use Class C4) at first floor comprising 6-bedrooms. Moreover, the LPA has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, and therefore there is no good reason to refuse the grant of a certificate "on the balance of probability".

In conclusion, the LPA have been provided with information satisfying them that the existing use or operations described in the application are lawful and a lawful development certificate should be granted.

RECOMMENDATION: Grant.

Informative(s):

1. This application for a certificate of lawfulness for an existing use only relates to a C4 (houses in multiple occupation) use which is a small, shared house occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. If more than six unrelated individuals reside in

the property at any point, then a change of use application from C4 (houses in multiple occupation) to Sui Generis would be required.