

Application Reference Number:	2026/0006
--------------------------------------	-----------

Application Type:	Certificate of Lawfulness - Existing
--------------------------	--------------------------------------

Proposal Description:	Certificate of existing lawful use for three self-contained flats (Use Class C3) on the first and second floors of existing building
------------------------------	--

Location:	Flat A, B, and C, 129 Doncaster Road, Barnsley, S70 1UF
------------------	---

Applicant:	Mr Steve Clarke
-------------------	-----------------

Third-party representations:	None	Parish:	None
		Ward:	Central

Summary:

This application is for a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990 and seeks confirmation of the existing use of three self-contained flats (Use Class C3) on the first and second floors of existing building. The confirmation is of the use being lawful and therefore immune from enforcement action and not requiring planning permission.

Based on the evidence submitted by the applicant, the LPA determines that the existing use of the three self-contained flats at 129 Doncaster Road, Barnsley, S70 1UF is lawful, and therefore, this lawful development certificate should be granted.

Recommendation:

Lawful Development Certificate - Granted

Site Description

The application relates to 129 Doncaster Road which is a terraced, three storey, stone fronted property. The property has most recently had retail use on the ground floor with three flats above. The planning history indicates that the building was once a dwelling. The building is located on the outskirts of the town centre on a main road (A635) which travels east towards Stairfoot. The area consists of a number of commercial units; however, the predominant use of the area is residential.

Date Produced: 27-Dec-2025

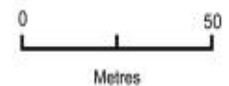
Scale: 1:1250 @A4



Planning Portal Reference: PP-14550451v1



© Crown copyright and database right. 2025 OS 100042706



Planning History

There are various planning applications associated with the site.

Application Reference	Description	Status
B/77/0133/BA	Erection of five garages	Historic
B/94/0340/BA	Use of ground floor of premises for office and storage	Approve with Conditions
B/03/0286/BA	Change of use of shop to dwelling	Approve with Conditions
2025/0723	Change of use of ground floor from retail (Use Class E(a)) to 2x residential studios (Use Class C3) and associated alterations to elevations	Approve with Conditions

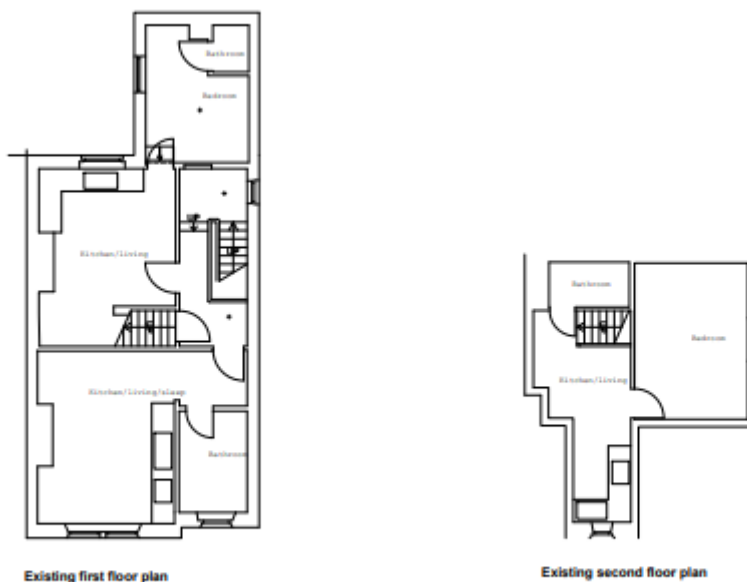
Proposed Development

This application is for a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990 and seeks confirmation of the existing use of three self-contained flats (Use Class C3) on the first and second floors of existing building.

A certificate under this section can be sought if any person wishes to ascertain whether –

- a) any existing use of buildings or other land is lawful;
- b) any operations which have been carried out in, on, over or under land are lawful; or
- c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful.

The confirmation is of the use of the flats being lawful and therefore immune from enforcement action and not requiring planning permission.



Consultations

Central Ward Councillors – Objected due to HMO use

Legal – No objections

Representations

There is no statutory requirement for a Local Planning Authority to consult third parties, including neighbouring residents or parish councils on a lawful development certificate application, 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.

Nevertheless, this application was made available online and neighbouring properties were consulted. No representations were received.

Assessment

The LPA can grant a certificate confirming that an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under Section 191 of the Town and Country Planning Act 1990. The applicant has submitted this application for lawful use of the relevant area of land under Section 191 of the Town and Country Planning Act 1990.

Section 191(1) provides that if any person wishes to ascertain whether any existing use of buildings or other land is lawful they may make an application for that purpose to the local planning authority specifying the land and describing the use, operations or other matter. Section 191(4) further provides that if, on the basis of the information provided in the application, the Council is satisfied at the time of the application of the use, and the Council is obliged to issue a certificate to the effect that the use is lawful. It should therefore be assessed whether the use of the land is lawful under the Town and Country Planning Act 1990 on the basis.

Under Section 191 of the Town and Country Planning Act 1990, the Council must determine whether the applicant has shown, on the balance of probabilities, that the use is lawful. For an existing use to be considered lawful, the applicant must demonstrate that:

- The use has continued for at least the relevant immunity period;
- The evidence submitted is sufficiently precise, unambiguous, and consistent; and
- The burden of proof rests with the applicant.

Because the alleged breach occurred prior to 25 April 2024, the applicant may rely on the former 4-year immunity period.

Having reviewed the applicant's statement, the use of the first and second floors as three independent flats appears to have begun around 2006 to 2007. The property has remained in the same ownership for over 20 years, during which the flats have been let continuously since at least 2007. Regarding continuity of use, there is no evidence of abandonment, nor any indication of an intervening or alternative use. It is deemed that, short vacant periods between tenants and the current vacancy arising from the owner's intention to sell with vacant possession do not interrupt a lawful residential use. Such short gaps are entirely consistent with normal rental patterns and do not undermine continuity.

It is deemed that, the evidence submitted (applicant's statement, council tax information, existing floor plan and the 12 tenancy agreements) is clear, consistent, and unambiguous. Taken together, the Local Planning Authority is satisfied that it meets the legal threshold required. Finally, the Local Planning Authority holds no contradictory evidence, and it is considered that the application is sufficiently well evidenced and, on the balance of probabilities, establishes an existing lawful use. It is recommended that the Lawful Development Certificate is granted in the applicant's favour.

Recommendation

Lawful Development Certificate – Granted

Barnsley Metropolitan Borough Council hereby certify that the development described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and edged red on the plan submitted as part of this application, would be lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason;

- On the balance of probabilities, it is considered that the evidence submitted with the application demonstrates that the works were carried out in excess of 4 years ago and thus are not liable for planning enforcement action under Section 171B(2) of the 1990 Town and Country Planning Act (as amended)

First Schedule: Certificate of existing lawful use for three self-contained flats (Use Class C3) on the first and second floors of existing building

Second Schedule: Flat A, B, and C, 129 Doncaster Road, Barnsley, S70 1UF