

Application Reference Number:		2026/0157	
Application Type:		Lawful Development Certificate – Existing.	
Proposal Description:		Lawful development certificate for existing use of first floor as a self-contained dwellinghouse (Use C3).	
Location:		97A and 99A Houghton Road, Thurnscoe, Rotherham, S63 0JX.	
Applicant:		Mr Andrew Revitt.	
Third-party representations:	None.	Parish:	
		Ward:	Dearne North.

Site Description

This application relates to an existing residential flat (Use Class C3) located above a ground floor commercial premises adjacent (east) to the Thurnscoe Social and Ex-Servicemen's Club. The development site forms a modest plot near to the junction of Houghton Road and Kingsway within the Thurnscoe (Houghton Road) Local Centre. The surrounding area is a mix of residential and commercial uses.



Planning History

There most relevant planning applications associated with the development site are as follows:

B/79/1307/DE	Use of former launderette as take-away food shop.	Historic.
B/80/1700/DE	Change of use of ground floor of shop/dwelling to office use.	Approved.
B/89/1934/DE	Change of use from shop to estate agents office.	Approved.

Proposed Development

This application is for a lawful development certificate (LDC) under Section 191 of the Town and Country Planning Act 1990 which seeks confirmation that the existing use of the first floor of 97A and 99A Houghton Road, Thurnscoe, Rotherham, S63 0JX as a self-contained dwellinghouse (Use Class C3) is lawful and does not require planning permission.

Relevant Policies

Section 191(1) the Town and Country Planning Act 1990 states that if any person wishes to ascertain whether: any existing use of buildings or other land is lawful; any operations which have been carried out in, on, over, or under land are lawful; or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

Section 191(4) then states that if, on an application under this section, the local planning authority 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 local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

Since 25 April 2024, local planning authorities have ten years to take enforcement action. The ten years will start running from:

1. in the case of operational development (e.g. engineering or building works), the date on which the operations were substantially completed; or
2. in the case of any other breach of planning control (including a change of use of a building to a single dwellinghouse), the date of the breach.

However, these time limits only apply if the operations were substantially completed or the breach occurred on or after 25 April 2024.

If the operational development was substantially completed, or the breach occurred, before 25 April 2024, the following planning enforcement time limits will apply:

1. in the case of operational development, four years from the date on which the operations were substantially completed;
2. in the case of a change of use of any building to a single dwellinghouse, four years from the date on which the breach occurred; and
3. in the case of any other breach of planning control (any other change of use, breach of planning condition, etc.), ten years from the date on which the breach occurred.

Consultations

Legal	Comment(s).
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Representations

There is no statutory requirement for LPAs to consult third parties, including neighbouring residents or parish councils on a lawful development certificate application as such applications are a matter of fact and law and are not determined on their planning merits or judged against national or local planning policies or guidance.

Nevertheless, any neighbour sharing a boundary with the site has been sent written notification and the application has been advertised on the Council website.

No representations were received.

Planning Assessment

This application is for a lawful development certificate (LDC) under Section 191 of the Town and Country Planning Act 1990 which seeks confirmation that the existing use of the first floor of 97A and 99A Houghton Road, Thurnscoe, Rotherham, S63 0JX as a self-contained dwellinghouse (Use Class C3) is lawful and does not require planning permission.

Section 191(2) of the Town and Country Planning Act 1990 states for the purposes of this Act uses and operations are lawful at any time if: (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

Section 171B(2)(a) of the Town and Country Planning Act 1990 states that where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of: in the case of a breach of planning control in England, ten years beginning with the date of the breach.

Prior to 25th April 2024 Section 171B(2) stated where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

In this instance, this application seeks confirmation that the existing use of the first floor of 97A and 99A Houghton Road, Thurnscoe, Rotherham, S63 0JX as a self-contained dwellinghouse (Use Class C3) is lawful and does not require planning permission.

This application is supported by the following:

- Plans (25-289 01);
- H.M. Land Registry (SYK268807);
- Planning Statement;
- A signed Statutory Declaration from the director of Hallwhite Property Limited dated 27th April 2026;
- A signed Affidavit dated 27th April 2026 (Peace Legal Solicitors); and
- A Lease dated 16th February 1989.

The submitted signed Affidavit establishes that the Thurnscoe Social and Ex-Servicemen's Club entered into a lease of 97A and 99A Houghton Road, Thurnscoe, Rotherham, S63 0JX from Hallwhite Property Limited from 10th December 2015 – 9th December 2025. The purpose of leasing the premises was to provide accommodation for a Club Steward. The premises were adapted for residential use from their earlier use as a Solicitor's office. The original tenant lived at the newly formed residential accommodation until shortly before 20th January 2021. The accommodation was sub-let to another tenant from October 2021 – 28th September 2022, when they then vacated the premises. The current tenant has lived at the accommodation since 1st November 2022.

The submitted signed Statutory Declaration establishes that Hallwhite Property Limited has received continuous monthly rental income since at least 10th December 2015, and that such payments have been made without material interruption to the present day.

Based on the submitted details, it is apparent that the breach occurred prior to 25th April 2024 and therefore, this application should be assessed against the previous provisions of Section 171B(2) in that this breach represents a change of use of any building to use as a single dwellinghouse and as such, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. This change of use has therefore been unenforceable since at least 2019.

Despite comments from Legal (BMBC) suggesting that a 34-day gap between 28th September 2022 – 1st November does not constitute a continuous use of the premises for the purposes of residential accommodation (Use Class C3), there is no evidence of abandonment, nor any indication of an intervening or alternative use. Short vacant periods between tenancies do not interrupt a lawful residential use. Such short gaps are entirely consistent with normal rental patterns and do not undermine continuity.

Notwithstanding the above, the breach occurred before 25th April 2024 and therefore, there is no requirement to demonstrate a continuous 10 year use – although the applicant has demonstrated this when considered on the balance of probabilities and against a backdrop of a lack of evidence to the contrary – and should be considered against the previous 4-year requirement. It has been determined that the change of use to a residential dwellinghouse became unenforceable from at least 2019 based on the submitted evidence and information. As such, this application is considered to meet the legal threshold required to grant a lawful development certificate for the existing use. The Local Planning Authority holds no contradictory evidence, and it is considered that this application is sufficiently well evidenced, clear, consistent and unambiguous, and on the balance of probabilities, it is considered that a lawful existing use has been presented. As such, it is recommended that a lawful development certificate should be granted.

RECOMMENDATION: Lawful development certificate – Grant.

1. On the balance of probabilities, it is considered that the evidence submitted with this application demonstrates that the change of use of any building (97A and 99A Houghton Road, Thurnscoe, Rotherham, S63 0JX) to use as a single dwellinghouse was carried out in excess of 4 years prior to 25th April 2024 and thus is not liable for planning enforcement action under Section 171B(2) of the 1990 Town and Country Planning Act (as amended).