

HOLME PLANNING

Partnership

Planning Statement

**Certificate of Lawfulness for the Existing Use and Development (CLEUD)
Use of site as a 5 bedroom House in Multiple Occupation**

**17 Harley Avenue
Manchester
M14 5DJ**

September 2025

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1.0 Introduction

- 1.1 This statement has been prepared on behalf of the Applicant, Mr Mohammad Zia Rizvi, (“the Applicant”) to support a Certificate of Lawfulness application for the existing use and development of the property known as 17 Harley Avenue, Manchester, M14 5DJ (“the site”).
- 1.2 This Certificate application seeks to demonstrate the lawfulness of the existing use of the property as a 5 bedroom House in Multiple Occupation. This application is supported with documentary evidence including tenancy agreements, HMO licences, sworn statements, and correspondence from Manchester City Council.
- 1.3 This Certificate seeks to demonstrate that the property has been in consistent use as a small 5 bedroom house in multiple occupation for in excess of ten years, namely since at least May 2009.
- 1.4 The following sections of this report will apply the requirements of Section 191 of the Town and Country Planning Act 1990, to demonstrate the lawfulness of the existing use and arrangements on site.
- 1.5 The description of development to be applied for is therefore as follows:

“Certificate of Lawfulness for the Existing Use and Development associated with the use of 17 Harley Avenue, Manchester as a 5 bedroom House in Multiple Occupation.”

2.0 Site Context and Existing Use

Site Context

- 2.1 17 Harley Avenue is a three storey (including cellar) end of terrace property located on the corner of Harley Avenue and Upper Kent Road, Manchester. The property benefits from external amenity space to the front, side and rear.
- 2.2 The application site is located to the south of Manchester city centre, and within an area of residential character in the suburb of Longsight.
- 2.3 The site is well located for access to key local services and facilities including supermarkets, eating establishments, places of worship, hospital, as well as public transport connections, with the nearest bus stops located on Dickenson Road and Anson Road in close proximity to the property.
- 2.4 The property comprises of a cellar, entrance, kitchen, shower room, lounge and one bedroom at ground floor level and four bedrooms and a bathroom at first floor.

Site History

- 2.5 The site was originally constructed as a single dwellinghouse and was subsequently converted into two flats following planning permission in 2001 (see planning history below), but as evidenced within the property's Council Tax records, the property was reverted back to a single dwelling in December 2008. The property was then converted into a 5 bedroom house in multiple occupation by the Applicants' mother Mrs Roohi Rizvi who commenced such a use in at least May 2009. Mrs Rizvi operated the site as a five bedroom HMO consistently until her passing on 10th December 2024, although the property remains occupied and tenanted by five persons, and is currently in the control of the Applicant as the Executor of his mother's estate.
- 2.6 The site was originally issued with an operating licence as a five person HMO in August 2019 (following a change in regulations which required sites which met certain criteria to now fall under the licencing as evidenced within the correspondence submitted in support of this certificate). The original licence covered the period up to 11th August 2024. A further licence was then issued in October 2024 and covers the use of the site up to 19th August 2029. A copy of both licences has been included at Appendix 4.
- 2.7 From a review of the Council's online application database, we are aware of a historic application to convert the property into two self contained flats (application reference 061465/FO/NORTH2/01), which was approved by Manchester City Council 20th April 2001. We are of the understanding that works to convert the premises were completed and the change of use undertaken, but as set out above the property was reverted back to a single home in December 2008 by the Applicant's mother.

Existing Use

- 2.8 As shown on the as submitted as existing plans, the site is split into a 5 bedroom house in multiple occupation with communal entrance area, living and kitchen facilities, shared bathrooms and garden area. The site has been in such uninterrupted use for a period of at least 10 years and is therefore lawful by the passage of time.

3.0 Section 191 of the Town and Country Planning Act 1990

- 3.1 Certificates of Lawfulness for existing use or development are to be determined in line with the provisions of Section 191 of the Town and Country Planning Act 1990 which reads as follows:

“191Certificate of lawfulness of existing use or development.

(1)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, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2)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.

(3)For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

(a)the time for taking enforcement action in respect of the failure has then expired; and

(b)it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

[F3(3A)In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

(a)the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,

(b)an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c)a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.]

(4)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.

(5)A certificate under this section shall—

(a)specify the land to which it relates;

(b)describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c)give the reasons for determining the use, operations or other matter to be lawful; and

(d)specify the date of the application for the certificate.

(6)The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

(7)A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission—

(a)section 3(3) of the M1Caravan Sites and Control of Development Act 1960 [F4or section 7(1) of the Mobile Homes (Wales) Act 2013;]

(b)section 5(2) of the M2Control of Pollution Act 1974; and

(c)section 36(2)(a) of the M3Environmental Protection Act 1990.]”

3.2 In the determination of Certificates of Lawfulness, it is accepted that the onus of proof is on the applicant to demonstrate that the use or development being applied for is lawful on the date of the application. It is noted that the standard of proof in respect of a certificate is on the balance of probability. Furthermore, it was held in *F. W. Gabbitts v Secretary of State and Newham London Borough Council* [1985] J.P.L 630 that an applicant’s own evidence does not require to be corroborated by independent evidence in order to be accepted.

3.3 Further, if the local planning authority or an Inspector have no evidence of their own or from third parties to contradict or otherwise dispute the applicant’s version of events, rendering them less than probable, then there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of the certificate on the balance of probability.

- 3.4 Given the extent of evidence provided to support this Certificate application, there is an expectation that this Certificate of Lawfulness for existing use will be granted in line with the provisions of the Act.

4.0 Documentary Evidence

- 4.1 Subsection (5) of section 191 provides for certain matters a Lawful Development Certificate (LDC) must contain. The LDC is particularly valuable because its effect is similar to a grant of planning permission. It is therefore vital that the certificate indicates precisely the area of land to which it relates; precise details of what use, operations or failure to comply with a condition are found to be lawful, why, and when. For example, if a certificate is for a use of land - unless the use falls within one of the "use classes" specified in the Use Classes Order current at the time, or the certificate is granted on the basis that a specific grant of planning permission confers lawfulness on the use, it is important for it to state the limits of the use at a particular date.
- 4.2 These details will not be legally equivalent to a planning condition or limitation. They will be a point of reference, specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies, or changes in some way to the point where a "material" change of use takes place, the LPA may then take enforcement action against that subsequent breach of planning control.
- 4.3 By virtue of section 191(5)(b), an LDC must include a description of the use, operations or other matter for which it is granted regardless of whether the matters fall within a "use class" of the UCO. But where within a "use class", an LDC must also specify the relevant "class". In all cases the description must be more than simply a title or label, if future interpretational problems are to be avoided. The LDC should therefore state the characteristics of the matter so as to define it unambiguously.
- 4.4 This Certificate application has been unambiguously described within this supporting statement as a 5 bed House in Multiple Occupation. Further, the application is supported by numerous documentary evidence including:
- As Existing site plan, floor plans and elevations;
 - Sworn Statements of original landlord's sons (Appendix 1);
 - Copies of Signed Tenancy Agreements from November 2011 to September 2024 (Appendix 2);
 - Correspondence from Manchester City Council in relation to the use of the site (Appendix 3); and
 - Manchester City Council issued HMO licences from 2019 to 2024 (Appendix 4);
- 4.5 It can be confirmed in relation to the development subject of this Certificate application, that:
- The land to which this Certificate relates is 17 Harley Avenue, Manchester, M14 5DJ, as delineated on the location plan submitted with the certificate application;

- The site is in use as a small House in Multiple Occupation and has been in such use since at least May 2009. Prior to the implementation of the HMO use, the site is understood to have been in use as a single dwellinghouse (Use Class C3);
- The use of the site has not resulted in any external alterations to the property, nor did it require significant internal alterations on site beyond standard modernisation and decorating;
- The date of the application is as specified in the declaration made on the application form; and
- As demonstrated within the evidence submitted with this certificate application, the property has remained continuously in use as a 5 bedroom House in Multiple Occupation since at least May 2009 and therefore remains lawful.

4.6 Paragraph 006 of the National Planning Practice Guidance on Lawful Development Certificates confirms as follows in relation to evidence:

“The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any 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 alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.”

4.7 In this case, it is considered that the lawful use of the property is clearly as a House in Multiple Occupation for up to 5 persons. As evidenced within the tabulation of tenants included below, and tied in with the signed tenancy agreements included at Appendix 2, the site has been in continuous and interrupted use as a HMO since 2009, with tenancy agreements provided for each year from November 2011; in excess of the ten years required to demonstrate lawfulness.

	Tenants				
Year					
2012/13	James Heath	Dean Ashworth	Dan Hardy	Thanakorn Tuanwachat	John Graham
2013/14	Dean Ashworth	Daniel Hardy	Thanakorn Tuanwachat	John Graham	James Heath
2014/15	Alice Bywater	Abbie Jones	Holly Bycroft	Claudia Macdonald	Kara Siddall
2015/16	Hannah Presbury	Mauran Mahendra	Charlotte Webb	Sahil Patel	Vajin Patel
2016/17	Laura Sophie McGregor	Holly Regan Ridpath	Jessica Crawford	Bryony Caitlin Moore	Ruth Kellett
2017/18	Bryony Moore	Jessica Crawford	Laura McGregor	Holly Ridpath	Ruth Kellett
2018/19	Holly Ridpath	Jessica Crawford	Naeema Rahman	Laura McGregor	Ruth Kellett
2019/20	Aiden Hargreaves	Adam Gregory	George Shore	Jack Medforth	Jayde Broadbent
2020/21	Simran Parti	Nirmity Sawant	Komal Vohra	Darlene Jordan	Jodie Nieto
2021/22	Simran Parti	Nirmity Swant	Komal Vohra	Darlene Jordan	Jodie Nieto
2022/23	Ruby Varghese	Harikishan Kumar	Jodie Nieto	Freweini Goitom	Naima Mohamed
2023/24	Ruby Varghese	Harikishan Kumar	Jodie Nieto	Rushas Mehta	Thomas Klegin
2024/25	Ruby Varghese	Harikishan Kumar	Rushas Mehta	Thomas Klegin	Parshob Chakra

- 4.8 It is therefore clear that the use and development at 17 Harley Avenue, Manchester is lawful following the passage of time, and the site is therefore deemed to be lawful as a small HMO. Given that the Council have issued licences for the site to operate as a HMO since 12th August 2019 (see Appendix 4), and have been in correspondence with the applicants mother in relation to the use of the site as a HMO since at least 17th February 2017 (as evidenced in the correspondence included at Appendix 3) confirms that the Council have been aware of the property's use for a significant period of time, and have to date not deemed to take any further action against the development.
- 4.9 Furthermore, the evidence submitted with this Certificate application demonstrates the lawfulness of the use of the site and demonstrates such a conclusion beyond the balance of probability. Therefore, we would kindly request that the Council issue the Certificate without delay.

5.0 Conclusions

- 5.1 Subsection (6) of section 191 provides that the lawfulness of any matter for which a certificate is in force under this section shall be conclusively presumed because, once an LDC is issued, it is important that nobody should be able to "look behind" it to question whether what appears on its face is valid. The statement in an LDC of what is lawful relates only to the state of affairs on the land at the date of the certificate application.
- 5.2 Based on the evidence submitted in support of this Certificate application, it is clear that the lawful use of the land edged in red is as a 5 bedroom House in Multiple Occupation.
- 5.3 The applicants are therefore of the view that the lawful use of the site subject of the Certificate application is clear beyond the balance of probability, and we would therefore request that the local planning authority issue a Certificate of Lawfulness for the existing use of 17 Harley Avenue, Manchester as a 5 bedroom House in Multiple Occupation at their earliest convenience.