

## **Application for a Lawful Development Certificate for an Existing use or operation or activity including those in breach of a planning condition**

*Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991.*

Town and Country Planning (Development Management Procedure) (England) Order 2010

### **1. Applicant Name and Address**

Please enter the Applicant Details, including full name and title. Please also enter the house/flat number and/or name (if applicable) and street name in the Street address field. The town, county, country and full postcode should also be entered.

If the application is being submitted by an agent (i.e. someone who is acting on the applicant's behalf) all correspondence, including the decision letter, will be sent to him/her.

### **2. Agent Name and Address**

Please enter the Agent Details, including full name and title. Please also enter the house/flat number and/or name (if applicable) and street name in the Street address field. The town, county, country and full postcode should also be entered.

If the application is being submitted by an agent (i.e. someone who is acting on the applicant's behalf) all correspondence, including the decision letter, will be sent to him/her.

### **3. Site Address Details**

Please enter the full postal address of the site. Enter the house/flat number and/or name (if appropriate) and street name in the Street address field. The town, county and full postcode should also be entered. If the application relates to open ground describe its location as clearly as possible (e.g. *'Land to rear of 12 to 18 High Street'* or provide a grid reference).

When you submit a location plan, it is recommended that this is at a scale of 1:1250 or 1:2500, showing at least two named roads and surrounding buildings. The properties shown should be numbered or named to ensure that the exact location of the application site is clear.

The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays (access around a road junction or access, which should be free from obstruction), landscaping, car parking and open areas around buildings).

A blue line must be drawn on the plan around any other land owned by the applicant, close to or adjoining the application site.

All plans must be to a metric scale and any figured dimensions given in metres and a scale bar should be included. Each plan should show the direction of North.

#### **4. Pre-application Advice**

The local authority may be able to offer (possibly for a fee) pre-application discussions before a formal application is submitted in order to guide applicants through the process. This can minimise delays later in processing the application.

Pre-application discussions can also help you and the planning authority identify areas of concern about your proposed development so that you can give consideration to amending your proposal before the application is submitted. The advice and guidance given to you at the pre-application stage is given in good faith. However, it does not guarantee or supply a definitive undertaking as to whether your proposal is likely to be acceptable.

If you have received pre-application advice from the planning service please indicate the reference/date of any correspondence or discussion and the name of the officer. If you do not know these details then please state 'Unknown'.

This will assist the Council in dealing with your application as quickly as possible.

#### **5. Lawful development Certificate – Interest in Land**

Please specify the applicant's interest in the land. An Owner is the freeholder of the site and anyone who has a leasehold interest with at least seven years unexpired.

#### **6. Council Employee/Member**

You must declare whether the applicant or agent is a member of the council's staff, an elected member of the Council or related to a member of staff or elected member of the Council.

Serving elected members or planning officers who submit their own planning applications should play no part in their determination and such applications should be determined by the planning committee rather than by planning officers under delegated powers.

For the purposes of this question, 'related to' means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias on the part of the decision-maker in the local planning authority.

#### **7. Description of Use, Building Works or Activity**

A lawful development certificate has much the same effect as a planning permission. It gives immunity from further enforcement and it makes a development legally 'lawful'. The only restraints imposed by the Certificate are:

a) the land to which it relates, and

b) the description of the development found to be lawful

It is vital that you indicate precisely the area of land to which this application relates, and it is important that you state the relevant Use Class (if any) of any development deemed lawful. The Use Classes of the Town and Country Planning (Use Classes) Order 1987 (as amended) can be found at: <http://www.planningportal.gov.uk/permission/changeofuse>

#### **8. Description of Existing Use, Building Works or Activity**

Please provide a full description of the existing use, building works or activity. This may include, for example, a house that has had an extension built without permission despite it being required. After four years an application may be made for a certificate.

A second example may be where a use of land has been occurring without planning permission, such as the use of a dwelling house for a number of bedsits. After 10 years an application may be made for a certificate.

## **9. Grounds for Application for a Lawful Development Certificate**

You must explain in your own words why you consider a Lawful Development Certificate should be granted. The evidence necessary to prove your entitlement to a certificate will depend on what is being applied for, but you should always remember that the emphasis is on the applicant to convince the local authority that a certificate should be issued. Therefore, the evidence submitted should be clear and convincing.

Where some questions of fact are involved, the local authority will usually expect to see statements from persons who have a direct knowledge of those facts. It is normal to require such statements in the form of a sworn 'state declaration' and you should seek advice from a Solicitor or Planning Agent as to how this should be set out. In some cases letters or unsworn statements may be acceptable (for instance if there is some additional documentary evidence backing the statement). Letters may be acceptable if they back a sworn statement, but statements from owners or applicants which give crucial evidence should always be sworn in the proper form. Any other further evidence that can be provided will assist the application (such as photographs, invoices or documentation indicating the length of time it has been there).

## 10. Information in Support of a Lawful Development Certificate – Residential Information

To be considered for a certificate of lawfulness applicants must show that the 'use' that is the subject of the application has been continuous for in excess of 10 years or that the 'building works' have been substantially complete for more than four years, prior to your application. Give full details of each use of the land or operation on the land. Dates for the beginning and end of each use are also required, as well as supporting evidence.

If applicable, please also enter the total number of previous dwellings that existed and the number which currently exist by category and dwelling type.

The categories are classified as:

- Market housing – includes properties for sale where prices are set in the open market.
- Social rented – includes rented housing owned by local authorities and registered social landlords for which guideline target rents are determined through the national rent regime, set out in the *'Guide to Social Rent Reforms'* published in March 2001. Also includes rented housing owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or funded with grant from the Housing Corporation, as provided for in the *Housing Act 2004*.
- Intermediate – includes housing at prices or rents above those of social rent but below market prices or rents. This can include shared equity products (e.g. HomeBuy) and intermediate rent (i.e. rents above social-rented level but below market rents). Intermediate housing differs from low cost market housing (which Government does not consider to be affordable housing).
- Key worker – includes those groups eligible for the Housing Corporation funded Key Worker Living programme and others employed within the public sector (i.e. outside of this programme) identified by the Regional Housing Board for assistance.

The types of dwellings are classified as:

- i) Houses - a house is a dwelling that is not a flat and includes single storey bungalows.
- ii) Flats or maisonettes – includes separate and self-contained premises constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is usually divided horizontally. Maisonettes are flats containing more than one storey.
- iii) Live-work units - accommodation that is specifically designed to enable both residential and business use.
- iv) Cluster flats/non-self contained - units with no separate or self contained living and sleeping accommodation within a larger building of which it forms a part.
- v) Sheltered housing - specifically designed housing in a group with services such as the support of a warden, communal facilities, alarm systems and laundry services. Also includes grouped housing schemes without the services of a warden and other communal facilities.
- vi) Bedsits/studios – refers to a bedroom/living room containing cooking facilities. In addition, it may also contain washing facilities or even a shower.

## **11. Planning Application Requirements & Local Level Requirements**

There are two levels of requirements, national and local:

- **National** - Use the checklist to ensure that the forms have been correctly completed and that all relevant information is submitted.
- **Local** - The local planning authority will have produced a document (usually available from their website) which details any specific information that is required to accompany the application in addition to the national requirements.

Failure to complete the form correctly or to supply sufficiently detailed drawings or other relevant supporting information may result in your application being returned as invalid.

## **12. Declaration**

Please sign and date your application.

## **13. Applicant Contact Details**

Please provide contact information for the applicant.

## **14. Agent Contact Details**

Please provide contact information for the agent.

## **15. Site Visit**

Access to the site (i.e. where the works are proposed to take place) may be required by the case officer. Please provide contact details in the event that an appointment needs to be made. This will assist the Council in dealing with your application as quickly as possible.