



LRJ PLANNING

Planning, Design and Development



PLANNING STATEMENT

**SCHEME: CERTIFICATE OF LAWFULNESS (EXISTING USE)
APPLICATION**

SITE: FLAT A, 4 WHITTINGTON ROAD, N22 8YD

CLIENT: MR KAMYAB

DATE: MARCH 2026



1.0 INTRODUCTION

1.1 This Planning Statement has been prepared by LRJ Planning Ltd to support an application for a Certificate of Lawfulness (Existing Use).

1.2 In terms of the legal scope of the application, the application is made in respect of Section 191(2) of the Town and Country Planning Act 1990. Whilst there is no compulsion to apply for an LDC where a use is lawful, the applicant would like to formally establish with the local planning authority that the use of Flat A, 4 Whittington Road as a 3 bedroom, 3 persons House in Multiple Occupation (HMO) (C4 Use).

1.3

In order to obtain a certificate of lawfulness it is necessary to comply with the time limits under the Planning and Compensation Act 1991. This introduced rolling time limits within which local planning authorities can take planning enforcement action against breaches of planning control. The time limits are:

a) four years for building, engineering, mining or other operations in, on, over or under land, without planning permission. This development becomes immune from enforcement action four years after the operations are substantially completed.

b) four years for the change of use of a building, or part of a building, to use as a single dwelling house. Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken.

c) 10 years for all other development (most commonly unauthorised material change of use or breach of condition).

1.4

The 10 year period runs from the date the breach of planning control was committed. Once these time limits have passed, the development becomes lawful, in terms of planning an immune from enforcement action.

1.5

HMOs can be broken down into two different definitions including Small HMOs Use Class C4 and Large HMOs sui generis.



- 1.6 On 30th November 2013 an article 4 direction was made that removed permitted development rights for the conversion of a dwellinghouse (Use Class C3) to a HMO (Use Class C4) within areas in the east of the Borough. As a general rule, if a property was used as an HMO prior to 30th November 2013, there would be 'no change in use' if it can be demonstrated that the property was already being used for that purpose. This therefore negates the 10 year rule as alluded to above.
- 1.7 The Courts have held that any application of this nature requires the applicant to show “on the balance of probability” the use is a lawful one and that the test in criminal law of “beyond reasonable doubt” must not be applied. Furthermore, the Courts have held that the appellant’s own evidence does not need to be corroborated by “independent” evidence to be accepted. (FW Gabbitts Vs SSE and Newham LBD [1985] JPL630).

2.0 PROPOSAL

- 2.1 The description of the existing lawful use asserted is the ‘use of property as a 3 bedroom 3 persons HMO’.

3.0 EVIDENCE SUBMITTED PROVING THE LAWFUL USE

- 3.1 The evidence provided with this application comprises of the following:
- Statutory Declarations from Harbhamji Parbatji Sundavadra & Shantaben Sundavadra both dated 09 January 2026.
 - Tenancy Agreements and Licensing confirmation covering 2008 - 2025.
- 3.2 The evidence clearly indicates that critically for the purposes of this application on 30th November 2013, the property was in a lawful use as a 3 person, 3 bedroom HMO (C4 Use).



- 3.3 The evidence of Mr & Mrs Sundavadra corroborates that the property was owned and managed by them from March 2008 and that the property was continuously let to 3 single people occupying 3 bedrooms, a C4 HMO, until October 2025 when the property was placed for sale.
- 3.4 The Tenancy Agreements and Licence provide a full picture and time record of the situation since April 2008 to the date of this application. This evidence clearly demonstrates that there has been continuous occupation of the property as a 3 persons, 3 bedroom House in Multiple Occupation (C4 Use).

- Critically for the purposes of this application on 30th November 2013 the property
- 3.5 was in a lawful use as a C4 HMO. The application demonstrates that on the balance of probability based upon the evidence submitted that the property the subject of this application is and was a lawful C4 HMO on the date permitted development rights were removed.

Conclusion

- 4.0 As outlined above, the relevant test of the evidence submitted in respect of a Certificate of Lawfulness is whether on the balance of probability, the use or development is a lawful one. The written evidence submitted with this application demonstrates that the property known as Flat A 4 Whittington Road was in use as C4 HMO when the article 4 direction was made on 30th November 2013. This use has been continuous until the date of this application. There is therefore no reason for the Local Planning Authority to withhold a Certificate of Lawfulness in this instance.
- 4.1