



**PLANNING STATEMENT**

**42 Brantwood Road  
Luton, Bedfordshire LU1 1JJ  
for Mr John Cremin**

**2 APRIL 2021**



## Contents

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<b>1.0</b>	<b>Location</b> .....	<b>1</b>
<b>2.0</b>	<b>Context</b> .....	<b>1</b>
<b>3.0</b>	<b>Proposal</b> .....	<b>1</b>
<b>4.0</b>	<b>Planning Law</b> .....	<b>1</b>
<b>5.0</b>	<b>Planning History</b> .....	<b>1</b>
<b>6.0</b>	<b>Summary of Use</b> .....	<b>2</b>
<b>6.2</b>	<b>Council Tax</b> .....	<b>2</b>
<b>6.3</b>	<b>Flat 1</b> .....	<b>2</b>
<b>6.4</b>	<b>Flat 2</b> .....	<b>3</b>
<b>6.5</b>	<b>Flat 3</b> .....	<b>3</b>
<b>6.6</b>	<b>Flat 4</b> .....	<b>4</b>
<b>6.7</b>	<b>Flat 5</b> .....	<b>4</b>
<b>6.8</b>	<b>Flat 6</b> .....	<b>4</b>
<b>6.9</b>	<b>Flat 7</b> .....	<b>5</b>
<b>7.0</b>	<b>Application Documents</b> .....	<b>5</b>
<b>8.0</b>	<b>Summary</b> .....	<b>6</b>



## 1.0 Location

- 1.1.1 The site comprises a semi-detached former dwellinghouse located on the western side of Brantwood Road. A significant proportion of dwellings within Brantwood Road have undergone conversion to flats, shelters, bedsits and HMOs.

## 2.0 Context

- 2.1.1 The Applicant purchased 42 Brantwood Road in September 2009. At the time of the purchase the property was divided into seven units of accommodation. Soon after the purchase the property was upgraded and refurbished. The works were completed by the end of January 2010 and resulted in each unit having a dedicated kitchen, bathroom and WC.

## 3.0 Proposal

- 3.1.1 This Application seeks to regularise the status of the flats via a lawful development certificate.

## 4.0 Planning Law

- 4.1.1 In planning law a “dwellinghouse” includes all types of houses, bungalows, flats, apartments, etc. so long as they are self-contained and in separate occupation.
- 4.1.2 Section 55(3)(a) of the Town & Country Planning Act 1990 declares that the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change of use of the building and of each part of it which is so used. Each new residential unit thereby created is subject to the 4-year rule, because the effect of the conversion is to change the use of each part to use as a single dwellinghouse (*Van Dyck v SSE* [1993] J.P.L. 565 (CA)).
- 4.1.3 Individual flats created by a conversion are capable of becoming immune from enforcement under section 171B(2) where a continuous 4 year period of occupation can be demonstrated as per the decisions of *SSETR v Thurrock BC* [2002] EWCA Civ 226 and *Swale BC v FSS* [2005] EWCA Civ 1568.
- 4.1.4 After an initially unlawful residential use has become lawful under the 4-year rule, there is no longer a requirement that occupation of the dwelling after that date must still be continuous, provided that the use is not then abandoned or replaced by a different use (see *Panton and Farmer v SSETR* [1999] J.P.L. 46).

## 5.0 Planning History

- 5.1.1 There is no relevant planning history for consideration as part of this Application.



## 6.0 Summary of Use

- 6.1.1 This Application provides supporting evidence for each flat. Alongside the evidence, comprising tenancy agreements and council tax records is a statutory declaration which corroborates the evidence base.
- 6.1.2 Green Text within the tables indicate evidence from manuscript notes on the tenancy agreements. Blue text comprise dates which have been confirmed to be true by the Applicant as evidenced in the statutory declaration.
- 6.1.3 All of the flats have been occupied as separate dwellinghouses continuously for an uninterrupted period in excess of 4 years.

## 6.2 Council Tax

- 6.2.1 Each of the flats are individually rated for Council Tax and this is evidenced by 2582/11171/003 Council Tax Entries accompanying this Application. An email from Luton Council (2582/11171/004) confirms that the flats were individually rated from 1 February 2010.

## 6.3 Flat 1

TENANT	TERM START	TERM END	ACTUAL END DATE
Gary Doran	01/02/2010	31/07/2010	Rolled over
David M Garnett	27/07/2010	26/01/2011	Rolled over
Philip Charles McCallum	03/08/2010	02/02/2011	07/03/2011
Duncan Harvey	07/03/2011	06/09/2011	05/11/2011
Darren John White	08/11/2011	07/05/2012	Rolled over
Robert Joseph Archer	16/02/2012	15/08/2012	24/02/2012
Mark Wronka	24/12/2012	23/06/2013	14/05/2014
Clive Parker	30/06/2014	29/12/2014	Rolled over
Alan Webb	19/12/2014	18/06/2015	Rolled over
Robert Hopkins	17/01/2017	16/07/2017	23/02/2018
Daniel Brown	23/03/2018	22/09/2018	06/08/2019
Steven Webb	06/08/2019	05/02/2020	02/09/2019
Maurice Rumbles	02/09/2019	01/03/2020	Still in residence

- 6.3.1 The tenancy agreements and statutory declaration which are submitted with this Application clearly show that the residential occupation of Flat 1 persisted continuously between 17 January 2017 until today's date. The residential use of Flat 1 as a dwellinghouse became lawful and immune from enforcement action on 1 January 2021.



#### 6.4 Flat 2

TENANT	TERM START	TERM END	ACTUAL END DATE
Christopher John Travis	23/03/2010	22/09/2010	Rolled over
Daniel Laver	20/04/2010	19/10/2010	Rolled over
Christopher Willoughby	13/06/2011	12/12/2011	Rolled over
Scott Richardson	25/07/2011	24/01/2012	04/01/2012
Joseph Patrick Loughran	05/01/2012	04/07/2012	03/09/2012
Miss Sylvia Rose	03/09/2012	02/03/2013	14/12/2012
James O'Neill	17/12/2012	16/06/2013	Rolled over
Martin Nolan	01/07/2015	31/12/2015	Rolled over
Stuart Stone	17/08/2016	16/02/2017	Rolled over
Jimmy O'Neil	10/03/2017	09/09/2017	16/08/2018
Colin Shires	16/08/2018	15/02/2019	Still in residence

6.4.1 The tenancy agreements and statutory declaration which are submitted with this Application clearly show that the residential occupation of Flat 2 persisted continuously between 10 March 2017 until today's date. The residential use of Flat 2 as a dwellinghouse became lawful and immune from enforcement action on 10 March 2021.

#### 6.5 Flat 3

TENANT	TERM START	TERM END	ACTUAL END DATE
Peter Kerr	10/03/2010	09/09/2010	Rolled over
John Kennedy	16/05/2013	15/11/2013	Rolled over
Langley House Trust	06/06/2014	05/12/2014	05/01/2018
Selina Keen	15/01/2018	14/07/2018	Still in residence

6.5.1 The tenancy agreements and statutory declaration which are submitted with this Application clearly show that the residential occupation of Flat 3 persisted continuously between 6 June 2014 until today's date. The residential use of Flat 3 as a dwellinghouse became lawful and immune from enforcement action on 06 June 2018.



**6.6 Flat 4**

TENANT	TERM START	TERM END	ACTUAL END DATE
Gerald Cornish	17/02/2010	16/08/2010	Rolled over
Lee Colt	28/04/2011	27/10/2011	Rolled over
Leroy Sullivan	08/01/2013	07/06/2013	07/06/2013
Richard Nicklin	07/06/2013	06/12/2013	12/09/2013
Brian Tough	12/09/2013	11/03/2014	02/08/2016
David Thomas Egan	02/08/2016	02/02/2017	05/08/2019
Daniel Brown	06/08/2019	06/02/2020	11/09/2020

6.6.1 The tenancy agreements and statutory declaration which are submitted with this Application clearly show that the residential occupation of Flat 4 persisted continuously between 8 January 2013 until 11 September 2020. The residential use of Flat 4 as a dwellinghouse became lawful and immune from enforcement action on 08 January 2017.

**6.7 Flat 5**

TENANT	TERM START	TERM END	ACTUAL END DATE
Charles Oatley	18/02/2010	17/08/2010	Rolled over
Gerard Majella Elvers	12/04/2010	11/10/2010	03/03/2011
Philip Charles McCallum	07/03/2011	06/09/2011	16/08/2012
Martin Halloren	16/08/2012	15/02/2013	01/08/2016
Brian Tough	02/08/2016	01/02/2017	01/10/2020

6.7.1 The tenancy agreements and statutory declaration which are submitted with this Application clearly show that the residential occupation of Flat 5 persisted continuously between 12 April 2010 until 01 October 2020. The residential use of Flat 5 as a dwellinghouse became lawful and immune from enforcement action on 12 April 2014.

**6.8 Flat 6**

TENANT	TERM START	TERM END	ACTUAL END DATE
Tyrone Ricky Horden	18/02/2010	17/08/2010	08/05/2014*
Gregory Gray	01/05/2014	01/11/2014	15/09/2020

\* Note Tenant died and this is the date that his last belongings were collected

6.8.1 The tenancy agreements and statutory declaration which are submitted with this Application clearly show that the residential occupation of Flat 6 persisted continuously between 18 February 2010 until 15 September 2020. The residential use of Flat 6 as a dwellinghouse became lawful and immune from enforcement action on 18 February 2014.



## 6.9 Flat 7

TENANT	TERM START	TERM END	ACTUAL END DATE
Fabian Clarke	12/02/2010	11/08/2010	28/10/2010
Carl James Milton	16/11/2010	15/05/2011	Rolled over
Darren McPherson	28/02/2011	27/08/2011	Rolled over
Anthony John Grant	27/07/2011	26/01/2012	Rolled over
Martin Halloren	29/03/2012	28/09/2012	Rolled over
Colin Basil Dunkley	17/08/2012	16/02/2013	Rolled over
Barry O'Brien	13/06/2014	12/12/2014	Rolled over
Darren William Leney	03/04/2015	02/10/2015	30/08/2016
Jonathan Turvey	31/08/2016	28/02/2017	01/11/2017
John Ralph	02/11/2017	01/05/2018	24/10/2019
Nathan Loveridge	25/10/2019	24/04/2020	07/06/2020

- 6.9.1 The tenancy agreements and statutory declaration which are submitted with this Application clearly show that the residential occupation of Flat 7 persisted continuously between 03 April 2015 until 07 June 2020. The residential use of Flat 7 as a dwellinghouse became lawful and immune from enforcement action on 03 April 2019.

## 7.0 Application Documents

- 7.1.1 The following provides a summary of the Application documents which have been submitted via Planning Portal.

REFERENCE	DOCUMENT TITLE
PP-09612874	Application Form
2582/11171/001	Planning Statement
2582/11171/002	Site Location Plan
2582/11171/003	Council Tax Entries
2582/11171/004	Email from Luton Council Tax Department
2582/11171/005	Tenancies for Flat 1
2582/11171/006	Tenancies for Flat 2
2582/11171/007	Tenancies for Flat 3
2582/11171/008	Tenancies for Flat 4
2582/11171/009	Tenancies for Flat 5
2582/11171/010	Tenancies for Flat 6
2582/11171/011	Tenancies for Flat 7
2582/11171/012	Statutory Declaration



## 8.0 Summary

- 8.1.1 When deciding this Application please consider Government advice which states that the Application should be assessed on the balance of probability and in the absence of any evidence to the contrary the Council should provide a positive determination.



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