



South Gloucestershire Council
Department for Environment and Community Services
PO Box 1954
Strategic Planning
Bristol
BS37 0DD

21st November 2023
EMAIL ONLY

Dear Sir/Madam

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 2015 - Application for a Lawful Development Certificate for an Existing Use

558 FILTON AVENUE, FILTON, SOUTH GLOUCESTERSHIRE, BS7 0QG

Rackham Planning Ltd is instructed by Mr Edward Davis of Davis Estates Ltd (*‘the applicant’*) to submit an application for a Lawful Development Certificate in respect of the Existing Use of the property at 558 Filton Avenue, Filton, South Gloucestershire, BS7 0QG, as a small House in Multiple Occupation (HMO) (Use Class C4).

Use Class C4: Houses in multiple occupation is defined under The Town and Country Planning (Use Classes) Order 1987 (as amended) as being:

“Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”

South Gloucestershire Council’s Houses in Multiple Occupation Supplementary Planning Document (SPD) confirms that HMOs *“are properties rented out to at least 3 people who are not from one household (for example, a family) but share facilities like a bathroom or kitchen”*. Since 21st March 2015 no. 558 Filton Avenue has been rented out as an HMO to between 3 and 6 people who are not from one household and who share facilities. Information contained within this application provides evidence to confirm the lawfulness of the use of the property as a small HMO.

The Courts have held (notably *Gabbittas v Secretary of State for the Environment [1985]*) that the relevant test of evidence in an application for a Certificate of Lawfulness is on the ‘balance of probability’ and if the Council have no evidence of their own to contradict or undermine the Applicant’s evidence,

then there is no good reason to refuse the application, provided the evidence is sufficiently precise and unambiguous to justify the grant of a Certificate.

In this respect, and in support of this application, which is submitted online via the Planning Portal (ref: PP-12603161), are the following:

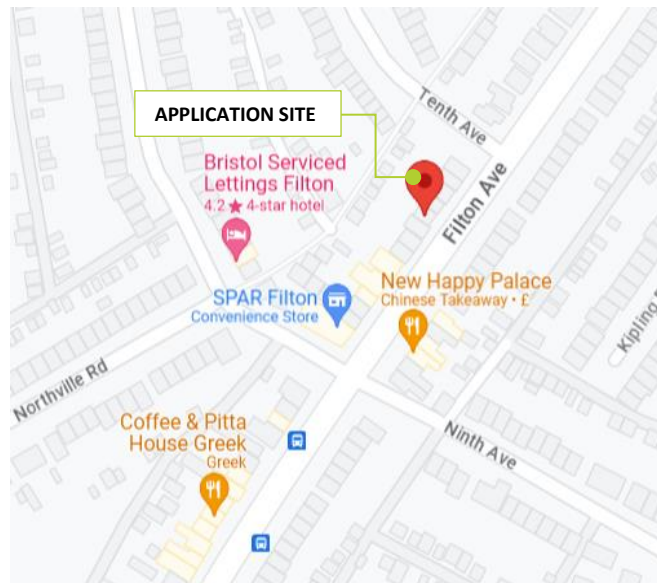
1. A copy of the planning application form for a Lawful Development Certificate;
2. Evidence contained within this letter;
3. Existing floorplans and elevations of 558 Filton Avenue prepared by Philip Clifford Design Consultants, showing the property as a 6 no. bedroom HMO (**Attachment 1**);
4. Evidence confirming the change of use and continuous lawful use of 558 Filton Avenue as a small HMO (Use Class C4) since March 2015:
 - a. Assured Shorthold Tenancy Agreements (ASTs) for between 3-6 tenants for the following periods:
 - i. 21.03.2015 – 20.03.2016 (3 tenants) (**Attachment 2a**)
 - ii. 18.01.2016 – 17.08.2017 (4 tenants) (**Attachment 2b**)
 - iii. 21.08.2017 - 31.05.2018 (4 tenants) (**Attachment 2c**)
 - iv. 03.08.2018 - 02.08.2019 (6 tenants) (**Attachment 2d**)
 - v. 03.08.2019 - 02.08.2020 (6 tenants) (**Attachment 2e**)
 - vi. 03.08.2020 – 02.08.2021 (6 tenants) (**Attachment 2f**).
 - vii. 03.08.2021 – 03.08.2023 (6 tenants) (**Attachment 2g**)
 - viii. 03.08.2023 – ongoing /rolling contract (6 tenants) (Managed by Centennial Property Ltd/The Housing Network (**Attachment 2h**))
 - ix. Letter from The Housing Network (dated 01/11/23) confirming occupation of the house as an HMO by six individual tenants. (**Attachment 2i**)

(NB – as the AST Agreements contain detailed personal information, these will be sent to South Gloucestershire Council under separate cover (and marked as “Confidential”). Redacted ASTs are included with the information submitted via the Planning Portal).

5. Photographs of the interior and garden of 558 Filton Avenue (**Attachment 3**);
6. Copy of the HMO Licences granted on 9th October 2018 and 9th October 2023 for use of the property by up to 6 persons (**Attachments 4a** and **4b** (personal information redacted));
7. Evidence of 558 Filton Avenue on South Gloucestershire Council HMO Mapping tool (**Attachment 5**);
8. Historic Sales Particulars of 558 Filton Avenue (**Attachment 6**); and
9. The Completed Community Infrastructure Levy (CIL) Form.
10. The application fee of £462 has been paid to the Council under separate cover.

Application Site and Surrounding Area

The application site relates to a mid-terraced property at 558 Filton Avenue, within the Filton ward of North Bristol, approximately 6 km to the north of Bristol City Centre. The location of the site is shown at **images 1 -3** below.



Images 1 and 2 Site Location Plans (Source: Google Maps)



Image 3: Aerial Photograph of site (Source: Google Maps)

The property is a two storey, 6-bedroom house, with accommodation at roof level. It has a separate kitchen, living room and bedroom on the ground floor, three bedrooms and a bathroom at first floor level and two further bedrooms and a shower room at roof level. A floorplan of the existing layout is included at **Attachment 1**. The property has front and rear gardens with off street parking for one car (in a garage) at the rear (see **images 4-6**). It is in use as a licensed 6-bed HMO (Use Class C4) and has been used as an HMO since March 2015. The history of this use is set out below.



Images 4, 5 and 6: Front elevation, rear elevation and garden and rear garage at 558 Filton Avenue

The property adjoins dwellings at no. 556 Filton Avenue (to the south west) and 560 Filton Avenue (to the north east) and is opposite dwellings on the other side of Filton Avenue. The rear garden (to north west) has a single garage, which is accessed via a private drive off of either Tenth Avenue (to the north) or Northville Road (to the south west). Beyond this are rear gardens of properties to the on Tenth Avenue.

No. 558 Filton Avenue is in a predominantly residential area, within easy walking distance of a range of services and facilities and public transport (bus stops) located approximately 50-100 metres away on Filton Avenue and on Gloucester Road North (circa 800 metres away). Filton Abbey Wood train station is less than 500m metres to the east, Abbeywood Retail Park is approximately 1 km to the north east and the MOD and Airbus are located within 1 km of the site. The property also has easy access to open space at Millenium Green (circa 500 metres to the west).

Property History and Evidence of Use as an HMO

The property was purchased by Edward and Beth Davis in 2015 at which time the property comprised a 3 no. bedroom residential dwelling (see Sales Particulars at **Attachment 6**). After purchase 558 Filton Avenue has been let out continually as a small HMO for between 3 and 6 no. residents under AST agreements from 21.03.2015 to the present day (see **Attachments 2(a) – 2(i)**). Ownership of the property transferred to Davis Estates Ltd in 2021.

In 2018 works to facilitate a loft conversion were undertaken which created two additional bedrooms and a shower room in the roof. The property subsequently comprised 6 bedrooms, a separate kitchen and living room, hall, bathroom and shower room. The layout is shown on the existing floorplans at **Attachment 1** and photographs at **Attachment 3**. The property was rented out as a small HMO for 6 no. residents from 03.08.2018 and remains let on this basis. The rental history of the property as an HMO is confirmed in the AST Agreements submitted in support of the application.

An HMO Licence was granted for the property on 9th October 2018 which confirmed that the property was suitable for occupation by 6 households/6 persons. This was renewed on 9th October 2023. Copies of the HMO Licences are included at **Attachment 4** and evidence that the property is recorded on the South Gloucestershire Council HMO Mapping Tool is included at **Attachment 5**.

According to the South Gloucestershire Planning Applications Portal, there is no planning history associated with the property.

Permitted Development Rights

There are no Article 4 Directions (A4D) covering the property and the permitted development rights of 558 Filton Avenue are in-tact. An A4D withdrawing permitted development rights to convert dwelling houses (C3) to small Houses in Multiple Occupation (HMO) (C4) is due to come into force on 10th January 2024. The A4D area includes the application site.

The lawfulness of the use of 558 Filton Avenue as an HMO has been established as a result of the change of use of the property from a single dwellinghouse in Use Class C3 to a single dwellinghouse in Use Class C4 (use as a dwellinghouse by not more than 6 residents) in March 2015, which (at the time) was permitted development under Schedule 2, Part 3, Class I of the Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended), which effectively granted planning permission for the development under the Order. Aside from increasing the number of tenants from 3

to 6, the nature of the occupation of the property has not changed since this date, the property has been used continuously for this use and remains occupied and rented as a small HMO (Use Class C4).

The relevant extract (Schedule 2, Part 3, Class I) of the GDPO (1995 – as amended) which was in force when the original change of use occurred is copied below:

“Permitted development

I. Development consisting of a change of the use of a building—

(a) to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class C4 (houses in multiple occupation) of that Schedule;

(b) to a use falling within Class C4 of that Schedule from a use falling within Class C3” (our emphasis)

The change in use of 558 Filton Avenue in March 2015 from a dwellinghouse in Use Class C3 to a house in multiple occupation in Use Class C4 therefore complied with Schedule 2, Part 3, Class I of the GDPO (1995, as amended).

Evidence confirming this change of use is set out in the Property History section above. As demonstrated by the evidence, the use of 558 Filton Avenue as a house in multiple occupation (Class C4) was therefore lawfully established in 2015 under Schedule 2, Part 3, Class I of the GDPO. As shown in the AST Agreements (contained in **Attachment 2**), with the exception of increasing the number of tenants from 3 to 6, the nature of the occupation of the property has not changed since March 2015 and the property remains rented out as a small HMO.

Summary of evidence in support of Lawful Development Certificate

In accordance with Section 191 of the Town and Country Planning Act 1990 (as amended), this application provides evidence to confirm that the existing use of 558 Filton Avenue under Use Class C4 is lawful and that no enforcement action can be taken given that the change of use of the property from Use Class C3 to Use Class C4 in March 2015 constituted permitted development as defined by Class I of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) on the date it was undertaken and that the property has remained in continuous use under Use Class C4 since this date.



The Tenancy Agreements and property history (set out above) provide evidence to confirm that the property was a Use Class C4 house in multiple occupation in March 2015, when it was rented out to 3 residents who were not from one household. The ASTs confirm it has been rented out continuously to between 4-6 residents who are not from one household since this date. The HMO Licences (granted on 9th October 2018 and 9th October 2023) confirm that the property is suitable for use as a small HMO with a maximum of 6 persons/6 households and the HMO is included on the South Gloucestershire Council HMO mapping tool as a licensed HMO.

In view of the above, on the balance of probability, coupled with the fact that there is no evidence to contradict or undermine the evidence submitted herein, the Council are in a position to issue a Lawful Development Certificate for the Existing Use of 558 Filton Avenue as a small house in multiple occupation (Use Class C4).

I look forward to receiving confirmation that the application has been registered and its target determination date. If there are any queries relating to registration or to discuss the application during its determination, please do not hesitate to contact me via either email (address below) or telephone (07971 860610).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Kathryn Wrigley', on a light blue background.

Kathryn Wrigley

Rackham Planning Limited

kathryn@rackhamplanning.co.uk

Enc. As Above
cc Mr E. Davis