

SUPPORTING STATEMENT

7 MAYO ROAD, BRIGHTON, EAST SUSSEX, BN2 3RJ



APPLICATION FOR A CERTIFICATE OF LAWFULNESS: EXISTING USE
ON BEHALF OF: MS HENRIETTA WILKINS

DECEMBER 2023

Client: Ms Henrietta Wilkins

Site Address: 7 Mayo Road, Brighton, BN2 3RJ

Job History:

Version	Date	Author	Checked	Notes
Draft V1	11/12/2023	EP	LC	

CONTENTS

- 1. INTRODUCTION & SUMMARY**
- 2. TIME LIMITS ON ENFORCEMENT**
- 3. EVIDENCE OF USE**
- 4. PLANNING HISTORY**
- 5. LAWFULNESS OF THE USE**

APPENDICES

1.0 **INTRODUCTION & SUMMARY**

1.1 This statement is submitted in support of the application on behalf of Ms Henrietta Wilkins for a Certificate of Lawfulness for the existing use of 7 Mayo Road, Brighton, as a six-person (C4) House in Multiple Occupation (HMO).

1.2 This statement explains the reasons why the use as a C4 small HMO is lawful and a Certificate confirming so should be granted.

1.3 7 Mayo Road is currently in use as a C4 small HMO on the eastern side of Mayo Road in Brighton.



(7 Mayo Road, Brighton: Google Streetview)

1.4 The property is an end of terrace, two-storey property with additional floor of accommodation in the basement, finished in white render.

1.5 The surrounding area is characterised by predominantly residential buildings with rows of terraced housing.

- 1.6 The property matches the style and character of neighbouring dwellings and sits comfortably within the streetscene.

2.0 TIME LIMITS ON ENFORCEMENT

- 2.1 Section 171B of the 1990TCPA (as amended) sets out the time limits for enforcement of planning.

- 2.2 This section of the 1990 TCPA was recently amended by S115 of the Levelling up and Regeneration Act 2023, which came into force on 26th October 2023.

171B Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of:

(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and

(b) in the case of a breach of planning control in Wales, four years beginning with the date on which the operations were substantially completed

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of:

(a) in the case of a breach of planning control in England, ten years beginning with the date of the breach, and

(b) in the case of a breach of planning control in Wales, four years beginning with the date of the breach.”

- 2.4 The principal reason that the use of the application site as a C4 HMO is considered lawful is because the dwelling has been let by six tenants since at least August 2013.

- 2.5 At the date of this application, this exceeds 10 years of continuous use. While the use does not benefit from express planning permission, it is now immune from enforcement action and is the lawful use of the property.
- 2.6 Use as a C4 HMO has been continuous since August 2013 and is strongly supported by the evidence submitted. The evidence includes Assured Shorthold Tenancies from each year, which confirms that the property has been in use as a C4 small HMO since at least 2013.
- 2.7 This statement will now provide an explanation of the evidence submitted. This statement will demonstrate on the balance of probability that it is clear that the lawful use of the property is a C4 HMO.

3.0 EVIDENCE OF C4 HMO USE

- 3.1 We have provided evidence that the property has been let as a C4 HMO for a continuous period of over ten years, dating back to at least 2013.
- 3.2 Assured Shorthold Tenancy Agreements have been provided which show that the property has been let as a small C4 HMO to six tenants since 2013.
- 3.3 The AST from 2015-2016 has only been signed by three tenants due to a page being missing from the AST, however each of the tenant's names have been provided within the AST to clearly show that 6 tenants were letting the property during this period.
- 3.4 The AST covering 2016-2017 from the previous managing agent has only been signed by five tenants, however a new managing agent took over the property and provided an AST from May – September 2017 which is signed by all six tenants.
- 3.5 A table summarising the evidence submitted is provided below which shows that 7 Mayo Road has been let as a C4 HMO for a continuous period of over ten years, dating back to at least August 2013.

Dates	Tenants	Documents	Signed?
2013-2014 Covering the dates 9 th August 2013 – 9 th August 2014	[REDACTED]	Assured Shorthold Tenancy Agreement	Signed by all six tenants 29 th July 2013
2014-2015 Covering the dates 15 th August 2014 – 15 th August 2015	[REDACTED]	Assured Shorthold Tenancy Agreement	Signed by all six tenants 20 th May 2014
2015-2016 Covering the dates 24 th August 2015 – 24 th August 2016	[REDACTED]	Assured Shorthold Tenancy Agreement	Signed by three tenants 14 th August 2015

<p>2016-2017</p> <p>Previous Agent AS Covering the dates 2nd September 2016 – 2nd September 2017</p> <p>New Agent AST covering th dates 30th May 2017 – 1 September 2017</p>		<p>Previous Agent - Assured Shorthold Tenancy Agreement</p> <p>New Agent – Assured Shorthold Tenancy Agreement</p>	<p>Previous agent Assured Shorthold Tenancy - Signed by five tenants 25th May 2016</p> <p>The new agent Assured Shorthold Tenancy signed by all six tenants 15th June 2017</p>
<p>2017-2018</p> <p>Covering the dates 8th September 2017 – 28th August 2018</p>		<p>Assured Shorthold Tenancy Agreement</p>	<p>Signed by all six tenants June and August 2017</p>
<p>2018-2019</p> <p>Covering the dates 4th September 2018 – 3rd September 2019</p>		<p>Assured Shorthold Tenancy Agreement</p>	<p>Signed by all six tenants February 2018</p>
<p>2019-2020</p> <p>Covering the dates 11th September 2019 – 29th August 2020</p>		<p>Assured Shorthold Tenancy Agreement</p>	<p>Signed by all six tenants March 2019</p>
<p>2020-2021</p> <p>Covering the dates 10th September 2020 – 30th August 2021</p>		<p>Assured Shorthold Tenancy Agreement</p>	<p>Signed by all six tenants June/July 2020</p>
<p>2021-2022</p> <p>Covering the dates 9th September 2021 – 30th August 2022</p>		<p>Assured Shorthold Tenancy Agreement</p>	<p>Signed by all six tenants February / March 2021</p>
<p>2022-2023</p> <p>Covering the dates 10th September 2022 – 30th August 2023</p>		<p>Assured Shorthold Tenancy Agreement</p>	<p>Signed by al six tenants May / June 2022</p>

2023-2024 Covering the dates 9 th September 2023 – 30 th August 2024		Assured Shorthold Tenancy Agreement	Signed by all six tenants February / March 2023

3.6 This evidence establishes on the balance of probabilities the lawful use of the property as a C4 small HMO.

4.0 PLANNING HISTORY

4.1 There are no planning applications in relation to 7 Mayo Road listed on Brighton & Hove’s online planning register.

5.0 **LAWFUL USE OF THE PROPERTY**

5.1 Section 191 of the Town and Country Planning Act 1990 states:

(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.

5.2 Section 171B of the same Town and Country Planning Act 1990 (as amended) sets out statutory time limits for enforcement action stating:

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of

(a) in the case of a breach of planning control in England, ten years beginning with the date of the breach, and

(b) in the case of a breach of planning control in Wales, four years beginning with the date of the breach.

5.3 The property is in use and let as a C4 small HMO. As required by the planning acts, the evidence provided by the applicant must demonstrate at least 10 years of continuous and uninterrupted use in any case (Section 171B (2)).

5.4 It is therefore necessary to demonstrate that the initial breach occurred on or before December 2013 and the property has remained in continuous use as a C4 small HMO since. The evidence shows the use as a C4 small HMO, let to six tenants occurring for a continuous period of more than 10 years, since at least 2013.

- 5.5 The Council's Enforcement Register, which shows enforcement action taken by the Council, contains no record of enforcement action at 7 Mayo Road, meaning that part (2b) of Section 191 of the Town and Country Planning Act 1990 would not apply.
- 5.6 The evidence supplied shows that 7 Mayo Road had changed use to a C4 small HMO by at least August 2013 and has been continuously in this use until the date of this submission. Therefore, the lawful use of the property is a C4 small HMO.
- 5.7 In light of the above and the evidence submitted, the Applicant respectfully requests that Brighton & Hove City Council issue a Certificate of Lawful Use to confirm the lawful use of the property as a C4 small HMO.

Lewis & Co Planning

December 2023

APPENDICES

APPENDIX A

2013 - 2014

Assured Shorthold Tenancy Agreement signed and dated by six tenants on 29th July 2013, covering the dates 9th August 2013 – 9th August 2014

APPENDIX B

2014 - 2015

Assured Shorthold Tenancy Agreement signed and dated by six tenants on 20th May 2014, covering the dates 15th August 2014 – 15th August 2015

APPENDIX C

2015 - 2016

Assured Shorthold Tenancy Agreement signed by three tenants on 14th August 2015, covering the dates 24th August 2015 – 24th August 2016

APPENDIX D

2016 - 2017

Assured Shorthold Tenancy Agreement by the previous managing agent signed by five tenants on 25th May 2016, covering the dates 2nd September 2016 – 2nd September 2017

Assured Shorthold Tenancy Agreement by the new managing agent signed by six tenants 15th June 2017, covering the dates 30th May 2017 – 1st September 2017

APPENDIX E

2017 - 2018

Assured Shorthold Tenancy Agreement signed by six tenants in June and August 2017, covering the dates 8th September 2017 – 28th August 2018

APPENDIX F

2018 – 2019

Assured Shorthold Tenancy Agreement signed by the six tenants February 2018, covering the dates 4th September 2018 – 3rd September 2019

APPENDIX G

2019 – 2020

Assured Shorthold Tenancy Agreement signed by six tenants March 2019, covering the dates 11th September 2019 – 29th August 2020

APPENDIX H

2020 - 2021

Assured Shorthold Tenancy Agreement signed by six tenants in June / July 2020, covering the dates 10th September 2020 – 30th August 2021

APPENDIX I

2021 - 2022

Assured Shorthold Tenancy Agreement signed by six tenants in February / March 2021, covering the dates 9th September 2021 – 30th August 2022

APPENDIX J

2022 – 2023

Assured Shorthold Tenancy Agreement signed by six tenants in May / June 2022, covering the dates 10th September 2022 – 30th August 2023

APPENDIX K

2023 - 2024

Assured Shorthold Tenancy Agreement signed by six tenants February / March 2023, covering the dates 9th September 2023 – 30th August 2024