

# 2014/5403

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

You can complete and submit this form electronically via the Planning Portal by visiting [www.planningportal.gov.uk/apply](http://www.planningportal.gov.uk/apply)

## Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Please complete using block capitals and black ink.

It is important that you read the accompanying guidance notes as incorrect completion will delay the processing of your application.

### 1. Applicant Name and Address

Title:	<input type="text" value="MR"/>	First name:	<input type="text" value="MICHAEL"/>		
Last name:	<input type="text" value="WARREN"/>				
Company (optional):	<input type="text"/>				
Unit:	<input type="text"/>	House number:	<input type="text" value="21"/>	House suffix:	<input type="text"/>
House name:	<input type="text" value="HAPPY VALE HOTEL"/>				
Address 1:	<input type="text" value="21 HARRINGTON SQUARE"/>				
Address 2:	<input type="text"/>				
Address 3:	<input type="text"/>				
Town:	<input type="text" value="LONDON"/>				
County:	<input type="text"/>				
Country:	<input type="text" value="GREAT BRITAIN"/>				
Postcode:	<input type="text" value="NW1 2JJ"/>				

### 2. Agent Name and Address

Title:	<input type="text"/>	First name:	<input type="text"/>		
Last name:	<input type="text"/>				
Company (optional):	<input type="text"/>				
Unit:	<input type="text"/>	House number:	<input type="text"/>	House suffix:	<input type="text"/>
House name:	<input type="text"/>				
Address 1:	<input type="text"/>				
Address 2:	<input type="text"/>				
Address 3:	<input type="text"/>				
Town:	<input type="text"/>				
County:	<input type="text"/>				
Country:	<input type="text"/>				
Postcode:	<input type="text"/>				

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

Please state for which of these you need a lawful development certificate/building works (you must tick at least one option):

- An existing use:  Yes  No
- Existing building works:  Yes  No
- An existing use, building work or activity in breach of a condition:  Yes  No

Being a use, building works or activity which is still going on at the date of this application

If Yes to either 'an existing use' or 'an existing use in breach of a condition', please state which one of the Use Classes of the Town and Country Planning (Use Classes) Order 1987 (as amended) the use relates to:

suu generis HMO

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

What is the existing site use(s) for which the certificate of lawfulness is being sought? Please fully describe each use and state which part of the land the use relates to:

The property was issued with a Certificate of Lawful Existing Use as a Bed and Breakfast/Boarding House on 13 May 1996. This certificate has been used in all recent litigation involving Mr Gether and the Happy Vale Hotel.

The Housing Benefit team provided evidence showing that during the last decade, at least 20 unrelated individuals received HB a decade ago, of which 4 have been resident until today. The property has been filled with long-term residents for the last decade. Two District Judges and the Residential Property Tribunal have determined the

### 9. Grounds For Application For A Lawful Development Certificate

Please state under what grounds is the certificate sought (you must tick at least one box):

- The use began more than 10 years before the date of this application.
- The use, building works or activity in breach of condition began more than 10 years before the date of this application.
- The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years.
- The building works (for instance, building or engineering works) were substantially completed more than four years before the date of this application.
- The use as a single dwelling house began more than four years before the date of this application.
- Other - please specify (this might include claims that the change of use or building work was not development, or that it benefited from planning permission granted under the Act or by the General Permitted Development Order).

If the certificate is sought on 'Other' grounds please give details:

The property was licensed as a mandatory house in multiple occupation between 11 September 2005 and 10 September 2013. Mr Gether was successfully prosecuted for failing to re-new the HMO licence.

*the property is a house in multiple occupation*

If applicable, please give the reference number of any existing planning permission, lawful development certificate or enforcement notice affecting the application site. Include its date and the number of any condition being breached:

Reference Number:  Condition Number:  Date (DD/MM/YYYY):  (must be pre application submission)

Please state why a Lawful Development Certificate should be granted:

The property has been used to house around 17 households since April 2004. Only one unit in the rear basement is a self-contained flat. All of the residents are long-term residents living in bed-sitting rooms with shared facilities. Mr Gether was unable to provide evidence of B&B occupation when requested.

### 10. Information In Support Of A Lawful Development Certificate

When was the use or activity begun, or the building works substantially completed:  (date must be pre-application submission) (DD/MM/YYYY)

In the case of an existing use or activity in breach of conditions has there been any interruption?  Yes  No

If Yes, please provide details of the dates, duration and any discontinuance of the development which is the subject of this application. If your application is based on the claim that a use or activity has been ongoing for a period of years, please state exactly when any interruption occurred:

In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought?  Yes  No

If Yes please provide details?

**10. Information In Support Of A Lawful Development Certificate (Continued) - Residential Information**

Does the application for a Certificate relate to a residential use where the number of residential units has changed?  Yes  No  
 If Yes, please complete the following table:

**Proposed Housing**

	Number of Bedrooms					Total
	1	2	3	4+	Unknown	
<b>Market Housing</b>						
Houses						
Flats & Maisonettes						
Live-Work Units						
Cluster Flats						
Sheltered Housing						
Bedsit/Studios						
Unknown						
<b>Market Housing Total (a+b+c+d+e+f+g) =</b>						

	1	2	3	4+	Unknown	
<b>Social Rented Housing</b>						
Houses						
Flats & Maisonettes						
Live-Work Units						
Cluster Flats						
Sheltered Housing						
Bedsit/Studios						
Unknown						
<b>Social Rented Housing Total (a+b+c+d+e+f+g) =</b>						

	1	2	3	4+	Unknown	
<b>Intermediate Housing</b>						
Houses						
Flats & Maisonettes						
Live-Work Units						
Cluster Flats						
Sheltered Housing						
Bedsit/Studios						
Unknown						
<b>Intermediate Housing Total (a+b+c+d+e+f+g) =</b>						

	1	2	3	4+	Unknown	
<b>Key Worker Housing</b>						
Houses						
Flats & Maisonettes						
Live-Work Units						
Cluster Flats						
Sheltered Housing						
Bedsit/Studios						
Unknown						
<b>Key Worker Housing Total (a+b+c+d+e+f+g) =</b>						

**Existing Housing**

	Number of Bedrooms					Total
	1	2	3	4+	Unknown	
<b>Market Housing</b>						
Houses						
Flats & Maisonettes						
Live-Work Units						
Cluster Flats						
Sheltered Housing						
Bedsit/Studios						
Unknown						
<b>Market Housing Total (a+b+c+d+e+f+g) =</b>						

	1	2	3	4+	Unknown	
<b>Social Rented Housing</b>						
Houses						
Flats & Maisonettes						
Live-Work Units						
Cluster Flats						
Sheltered Housing						
Bedsit/Studios						
Unknown						
<b>Social Rented Housing Total (a+b+c+d+e+f+g) =</b>						

	1	2	3	4+	Unknown	
<b>Intermediate Housing</b>						
Houses						
Flats & Maisonettes						
Live-Work Units						
Cluster Flats						
Sheltered Housing						
Bedsit/Studios						
Unknown						
<b>Intermediate Housing Total (a+b+c+d+e+f+g) =</b>						

	1	2	3	4+	Unknown	
<b>Key Worker Housing</b>						
Houses						
Flats & Maisonettes						
Live-Work Units						
Cluster Flats						
Sheltered Housing						
Bedsit/Studios						
Unknown						
<b>Key Worker Housing Total (a+b+c+d+e+f+g) =</b>						

**Proposed Housing Grand Total (A+B+C+D) =**

**Existing Housing Grand Total (E+F+G+H) =**

**TOTAL NET GAIN or LOSS of RESIDENTIAL UNITS (Proposed Housing Grand Total - Existing Housing Grand Total):**

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

Please state for which of these you need a lawful development certificate/building works (you must tick at least one option):

An existing use:  Yes  No

Existing building works:  Yes  No

An existing use, building work or activity in breach of a condition:  Yes  No

Being a use, building works or activity which is still going on at the date of this application

If Yes to either 'an existing use' or 'an existing use in breach of a condition', please state which one of the Use Classes of the Town and Country Planning (Use Classes) Order 1987 (as amended) the use relates to:

The property is not being used as a hotel/guest house where people stay temporarily. It is being used for long term let rooms as an HMO.

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

What is the existing site use(s) for which the certificate of lawfulness is being sought? Please fully describe each use and state which part of the land the use relates to:

Housing Benefit records show that the property has been used to provide long term rented accommodation for up to 20 unrelated individuals or 17 lettable units. The proprietor has been prosecuted twice and each time the District Judge has determined that the property has been operated as an HMO. A Residential Property Tribunal has also confirmed that the premises was an HMO. The Social Security Contributions and Benefits Act 1992 §130 requires the Council to only pay H. Benefit where the resident is occupying their accommodation as their home. All residents receive H. Benefit.

### 9. Grounds For Application For A Lawful Development Certificate

Please state under what grounds is the certificate sought (you must tick at least one box):

- The use began more than 10 years before the date of this application.
- The use, building works or activity in breach of condition began more than 10 years before the date of this application.
- The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years.
- The building works (for instance, building or engineering works) were substantially completed more than four years before the date of this application.
- The use as a single dwelling house began more than four years before the date of this application.
- Other - please specify (this might include claims that the change of use or building work was not development, or that it benefited from planning permission granted under the Act or by the General Permitted Development Order).

If the certificate is sought on 'Other' grounds please give details:

If applicable, please give the reference number of any existing planning permission, lawful development certificate or enforcement notice affecting the application site. Include its date and the number of any condition being breached:

Reference Number:  Condition Number:  Date (DD/MM/YYYY):  (must be pre application submission)

Please state why a Lawful Development Certificate should be granted:

The property has been used as a sui generis HMO with 17 lettable rooms for more than a decade.

### 10. Information In Support Of A Lawful Development Certificate

When was the use or activity begun, or the building works substantially completed:  (date must be pre-application submission) (DD/MM/YYYY)

In the case of an existing use or activity in breach of conditions has there been any interruption?  Yes  No

If Yes, please provide details of the dates, duration and any discontinuance of the development which is the subject of this application. If your application is based on the claim that a use or activity has been ongoing for a period of years, please state exactly when any interruption occurred:

I attach supporting evidence to show that the property has been used as an HMO providing long term accommodation for many households for the past decade.

In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought?  Yes  No

If Yes please provide details?

### 11. Planning Application Requirements - Checklist

Please read the following checklist to make sure you have sent all the information in support of your proposal. Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the Local Planning Authority has been submitted.

The burden of proof in a Lawful Development Certificate is firmly with the applicant and therefore sufficient and precise information should be provided.

The original and 3 copies of a completed dated application form:

The original and 3 copies of such evidence verifying the information included in the application as you can provide:

The original and 3 copies of a plan which identifies the land to which the application relates drawn to an identified scale and showing the direction of North:

The correct fee:

Charge 03110 66550

### 12. Declaration

I/we hereby apply for a Lawful Development Certificate as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

Signed - Applicant

Or signed - Agent

[Redacted Signature]

[Redacted Signature]

Date (DD/MM/YYYY):

20/08/2014 (date cannot be pre-application submission)

#### WARNING:

The amended section 194 of the 1990 Act provides that it is an offence to furnish false or misleading information or to withhold material information with intent to deceive. Section 193(7) enables the authority to revoke, at any time, a certificate they may have issued as a result of such false or misleading information.

### 13. Applicant Contact Details

Telephone numbers

Country code: National number: Extension number:  
 Country code: Mobile number (optional):  
 Country code: Fax number (optional):

Email address (optional):

mike.warren@cander.gov.uk

### 14. Agent Contact Details

Telephone numbers

Country code: National number: Extension number:  
 Country code: Mobile number (optional):  
 Country code: Fax number (optional):

Email address (optional):

### 15. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?  Yes  No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

Agent

Applicant

Other (if different from the agent/applicant's details)

If Other has been selected, please provide:

Contact name:

Telephone number:

Sarah Bray or June Welcome\*

4870 or 7601

Email address:

june.welcome@cander.gov.uk

As the Council has served an Interim Management Order on the premises, all of the locks have been changed and June Welcome and Sarah Bray now manage the property. They have kept to every room, but I can provide access to the common parts.