

- o 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
- o 10 years for all other development. 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.

Subsection (1) of section 191 provides for an application to determine whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes

Applications for Lawful Development Certificates should include the following information:

- o whether the application relates to:
 - o a use
 - o a building operation
 - o a condition not complied with
- o the date that the use started
- o any use class the applicant considers to be applicable
- o the reasons the applicant thinks he is entitled to a Lawful Development Certificate
- o any other relevant information
- o a plan identifying the land
- o a certificate as to the applicant's interest (ownership, tenancy etc) in the land and any interest of any other person

Submission

- Question 4 of the application form submitted on 30th April 2021 confirms that the application relates to an existing use.
- Question 7 of the application form submitted on 30th April 2021 confirms that the use begun in November 2010.
- Question 5 of the application form submitted on 30th April 2021 confirms that the use class the applicant considers to be applicable is C3 (b) [which covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems]
- Question 6 of the application form submitted on 30th April 2021 confirms that the application is accompanied by a Planning Statement setting out the reasons the applicant thinks he is entitled to a Lawful Development Certificate
- The application is accompanied by other relevant information in the form of a Planning Statement with Appendices, received on 30th April 2021.
- TQRQM21117103425799 site plan, received 30th April 2021 identifies the land
- Question 10 of the application form submitted on 30th April 2021 confirms that the applicant's interest in the land is as the owner

It is up to the person applying for a Lawful Development Certificate for an existing use to show the proper evidence. This could include:

- o proof that any use has been carried on continuously for a period of 10 years

The following evidence has been submitted in support of the LDC:-

Identity	Type of Evidence	Date
Susan Yvonne Newell	Statutory Declaration	31 st October 2018
Care Quality Commission	Review of Compliance	22 nd December 2011
Care Quality Commission	Inspection Report	6 th March 2013
Care Quality Commission	Inspection Report	31 st October 2013
Care Quality Commission	Inspection Report	17 th September 2014
Care Quality Commission	Inspection Report	15 th September 2016
Care Quality Commission	Inspection Report	16 th May 2019

Section 191 of the Town and Country Planning Act 1990 is the relevant section when dealing with issues of Certificates of Lawful Use or Development. Section 191 (1) (a) states that the use will be lawful if no enforcement action or Breach of Condition Notice could be served and, that the use or development does not constitute a contravention of any of the requirements of any Enforcement Notice then extant. In this case there is no record of an Enforcement Notice in respect of this property.

Circular 10/97 'Enforcing Planning Control - legislative provisions and procedural requirements' states that if a certificate is for a use of land - unless the use falls within one of the "use classes" specified in the Use Classes Order (UCO) current at the time, or the certificate is granted on the basis that a specific grant of planning permission confers, lawfulness on the use it is important for it to state the limits of the use at a particular date. These details will not be legally equivalent to a planning condition or limitation. They will be a point of reference, specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies, or changes in some way to the point where a "material" change of use takes place, the LPA may then take enforcement action against that subsequent breach of planning control (which a less precise certificate might well preclude). A LDC must therefore be precisely drafted in all respects.

By virtue of section 191(5)(b), a LDC must include a description of the use, operations or other matter for which it is granted regardless of whether the matters fall within a "use class" of the UCO. But where within a "use class", a LDC must also specify the relevant "class". In all cases the description must be more than simply a title or label, if future interpretational problems are to be avoided. The LDC should therefore state the characteristics of the matter so as to define it unambiguously.

This Certificate relates to the premises and its associated curtilage known as St Albans House, 2 St Albans Road, Clacton On Sea, CO15 6BA. The property is a care home which provides a residential service for 5 residents - all residents share the same kitchen and lounge. The residents have moderate learning difficulties, mental health needs, complex needs including behaviours that may challenge, restricted mobility and/or epilepsy.

Use Class C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems. The LPA are satisfied that the application has correctly been described as Use Class C3(b).

The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, St Albans House, 2 St Albans Road, Clacton On Sea, CO15 6BA has been used as a residential institution where [up to] six people live together as a single household and receive care e.g. supported housing schemes such as those for people with moderate learning difficulties, mental health needs, complex needs including behaviours that may challenge, restricted mobility and/or epilepsy as Use Class C3(b) for a period of 10 years, that this use has not been superseded by another material change of use and nor has it been abandoned.

6. Recommendation

Lawful Use Certificate Granted

7. Reasons

The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, St Albans House, 2 St Albans Road, Clacton On Sea, CO15 6BA has been used as a residential institution where [up to] six people live together as a single household and receive care e.g. supported housing schemes such as those for people with moderate learning difficulties, mental health needs, complex needs including behaviours that may challenge, restricted mobility and/or epilepsy as Use Class C3(b) for a period of 10 years, that this use has not been superseded by another material change of use and nor has it been abandoned.

8. Informatives

Are there any letters to be sent to applicant / agent with the decision?		NO
Are there any third parties to be informed of the decision?		NO