South Tyneside Council

Reference:	250317
Location:	88-90 Beech Street Jarrow NE32 5LD
Ward:	Monkton
Description:	Application for a Lawful Development Certificate for the proposed removal of section of internal stud wall to enable 2 self contained flats to be amalgamated into 1 single dwelling house.
Recommendation:	Grant Permission No Conditions
Case Officer:	Drewe Russell
Case Officer Contact No.:	0191 4247445 or 07765649865

Description of the Site

This application relates to 2 self-contained flats located on Beech Street

Description of the Proposal

This application is for a lawful development certificate for the proposed removal of section of internal stud wall to enable 2 self-contained flats to be amalgamated into 1 single dwelling house.

Summary of Consultation Responses

N/A

Summary of Representations

No neighbours were notified of this application. There is no legal requirement to notify neighbours in relation to a lawful development certificate application. However, the application is viewable on our online system.

Relevant planning policy

Legal Background

Section 192 (1) of the Town and Country Planning Act 1990 states that with regard to a certificate of lawfulness of proposed use or development, if any person wishes to ascertain whether any proposed use of buildings or other land, or any operations proposed would be

lawful, they may make an application for the purpose to the Local Planning Authority, specifying the land and describing the use or operations in question.

If the Local Planning Authority is provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

A certificate shall:
a) specify the land to which it relates;
b) describe the use or operations in question;
c) give the reasons for determining the use or operations to be lawful; and
d) specify the date of the application for the certificate.

The lawfulness of any use or operations for which a certificate is in force, shall be conclusively presumed unless there is a material change in any of the matters relevant to determining such lawfulness. The applicant has applied for a Certificate of Lawful Use as they would like the Council to make a statutory decision on whether the proposed use is lawful for planning purposes.

Assessment

Government Guidance (online and in relation to lawful development certificates) includes that "A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.".

The submitted information within the application form states the property would be changed from 2 self-contained flats into 1 single dwelling house. The applicant considers the proposed development to be lawful on the basis that it does not constitute a material change of use under the Town and Country Planning Act 1990. The proposal involves the removal of a section of an internal stud wall to amalgamate two self-contained flats into a single dwellinghouse. This results in no change to the use class, which remains C3 (dwellinghouses), and the internal alterations are considered de minimis in planning terms. As such, planning permission is not required. The works do not involve any external alterations, changes to access, or the creation of new streets or hard standings. Supporting documentation includes evidence of the existing lawful use as C3 and reference to relevant planning legislation confirming that internal works of this nature do not require planning consent.

As a result, based upon the submitted information (and having regard to the legislative provisions) it is considered that the works would not amount to development. It is therefore recommended that a Lawful Development Certificate be granted for the proposal described in the application.

In deciding whether to grant planning permission the Council must have due regard to the 3 equality aims contained in Section 149 of the Equality Act 2010 (the public sector equality duty). A preliminary assessment of the potential equality impacts of any grant of planning permission in this case has been undertaken. There are no apparent equality impacts of the proposed development which give rise to the need to undertake a more detailed equality impact assessment.

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this

recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Recommendation

Grant Certificate of Lawfulness

Informatives

1 UNIQUE NOTE TO APPLICANT

Your attention is drawn to the Party Wall Etc. Act 1996, which provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings.

A building owner proposing to start work covered by the Act must give adjoining owners notice of their intentions in the way set down in the Act. Adjoining owners can agree or disagree with what is proposed. Where they disagree, the Act provides a mechanism for resolving disputes.

The Act is separate from obtaining planning permission or building regulations approval and you can find out more about it at:
https://www.gov.uk/party-wall-etc-act-1996-guidance

Case officer: Drewe Russell

Signed: DR

Date: 30/06/2025

Authorised Signatory: *G. Simmonette*

Date: 03/07/2025