



South Tyneside Council

Reference:	260048
Location:	143 Marsden Lane, South Shields, NE34 7HN
Ward:	Horsley Hill
Description:	Application for a Lawful Development Certificate for the existing use of the premises as a self-contained residential dwelling
Recommendation:	Grant Permission No Conditions
Case Officer:	Samantha Gallagher
Case Officer Contact No.:	0191 4247447 or 07741109243

Description of the Site

This application relates to an existing residential flat within the former Marsden Inn public house, South Shields. The first floor of the building includes a self-contained residential flat with independent access from the rear of the building. Accommodation associated with the rest of the building is located on the first floor and then a Tesco is located at the ground floor with a reduced element of the pub retained.

Description of the Proposal

This application is for a lawful development certificate to establish the lawful use of the accommodation on the first floor of the building as a self-contained dwelling (Use Class C3).

The submitted application form (Grounds for Application) sets out that 'the first-floor flat at the Marsden Inn, 143 Marsden Lane, has been in continuous use as a self-contained residential dwelling for a period exceeding 10 years prior to the date of this application. The property has been separately assessed and billed for Council Tax purposes as a domestic dwelling. As the use of has subsisted for more than 10 years, no enforcement action may not be taken under Section 171B9(3) of the Act and the use is therefore Lawful.'

Accompanying the application form, the applicant has submitted a site location plan and floor plans (which show the property's layout with the self-contained unit separate from the rest of the building), a covering letter and copies of Council Tax bills.

The covering letter to support the application highlighted that Council tax records identify the property as 'The Marsden Inn Flat, 143 Marsden Lane, South Shields'. With the flat assessed and entered in the valuation list as Band A for domestic properties. Council tax demands for financial years 2024/25 and 2025/26 have also been provided.

The applicant considers that this evidence demonstrates that the local authority has recognised and treated the unit as a self-contained residential dwelling for a sustained period.

Summary of Consultation Responses

There is no legal requirement to undertake consultation with any consultees in relation to a lawful development certificate application. However, the application is viewable on council's online register of applications. Furthermore, the Local Planning Authority made enquires with Council Tax, following receipt of the applicant's evidence to support this application.

Council Tax

With reference to your enquiry regarding The Marsden Inn Flat. The property has been listed in the Council tax register since 1st April 1993 which is as far back as our records go.

Following further clarification it was confirmed that the residential accommodation (The Marsden Inn Flat) would come under Council Tax with a separate bill for the commercial/pub property.

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 the council's online register of applications.

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 has been used as a separate residential unit for a sustained period of time and that the use of the flat as a residential dwelling is therefore lawful due to passage of time.

The flat is access via an entrance separate from the pub/guest accommodation at the property (as opposed to an internal access within the building) and it is recognised that the accommodation could have originally been associated with the with the pub/hotel use as a form of managers accommodation (ancillary to the main use). However, the case officer has undertaken a review of the site history and noted that there are no restrictive conditions on any planning application requiring the use of the flat to be exclusive to persons associated with the pub (i.e. manager accommodation). There is also no separate planning history of the flat and no occupancy/tenant details provided or available, and therefore it cannot be established (beyond reasonable doubt) the occupancy of the flat and as such that it has been exclusively used for managers accommodation. Given the separate access to the flat, the occupancy would not have needed to be associated with the main use of the building as a pub/hotel and could have operated completely separately.

The case officer for the application also contacted the Council's Council Tax team to understand the history of the property and establish the period of time Council Tax has been sought from the premises. The Council Tax team confirmed that the property has been listed on the council tax register since 1st April 1993 and that they hold separate s for the public house, therefore two Council Tax records are held for 143 Marsden Lane, one for the residential flat and another for the commercial use. It is therefore considered that on the balance of probability the extant use of the flat within the building is a residential dwelling, and from council tax records indicates to have been in continuous operation for as least 10 years. 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 in respect of the proposed development

Informatives

- 1 For the avoidance of doubt, this decision relates to the following plans:

Location Plan Drg No LDC-00 Rev A Received 17/02/2026

Existing First Floor Plan Drg No LDC-04 Rev A Received 17/02/2026

Case officer: Samantha Gallagher
Signed: S Gallagher
Date: 21/04/2026

Authorised Signatory: Helen Lynch
Date: 24/4/26