

From: [REDACTED]
Sent: 30 January 2025 15:52
To: Ben Taylor
Cc: Planning
Subject: Application 3/2025/0014

 External Email

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Certificate of Lawfulness - Proposed *Lawful Development Certificate for proposed reinstatement of previous use.*

Hi Ben

It is understood that with an application for a Certificate of Lawful Development, a LPA is not obliged to carry out a neighbourhood consultation. However, it is felt by a number of residents that regardless of any intention or not of the LPA to do so in this instance, that the LPA should address their concern over this application.

The concern is over an alleged determination of the LPA and the legitimacy of what the application is attempting to achieve and is outlined in the following paragraphs 1 -7.

1) In a number of both historic and recent planning applications and their related officer delegated reports, it is quite clear that there are established defined planning use classes with regard to Nos 27 - 29 Bawdlands Clitheroe, the existing ground floor having Class E and the first floor having Class C3.

2) Legal advice has confirmed that a "defined planning use class" is not exclusively subject to a property, premises or land being "in use" or being "occupied," but is an established definition of what a property, premises or land may "lawfully be used for".

3) Given the foregoing, it seems extraordinary that the LPA would, according to the Statement submitted with the current application, determine that the property now has "no defined planning use class".

Again, from legal advice, if the LPA does contend that an established defined planning use class has been lost or changed it would need to provide evidence of "abandonment" (Ref para 4) or of a lawful "change of use" (Ref paras 5 & 6). Perhaps you could confirm if it is the case that the LPA has determined as is claimed.

4) If the LPA has determined as claimed, then with regard to "abandonment", as you will be aware, the criteria to provide guidance on determining abandonment are clearly established under case law and as the likelihood that a planning inspector or court, would, on the evidence available, determine that the building, (therefore the use), had been "abandoned" is unlikely in the extreme and as "vacancy" and "none use" are not legitimate reasons for a building to lose its defined planning use class, an explanation as to why the LPA has suddenly determined otherwise (if that is the case) would be welcomed.

5) With regard to "change of use" (ground floor), as previously mentioned, an application, Ref 3/2024/0552, to change the use to Sui Generis was recently refused. An earlier application by previous owners, Ref 3/2013/0481 for change of use of the ground floor to C3 was approved, however, this change of use was not implemented within the 3yr period as required by Condition 1 of that approval, therefore, the ground floor retained the defined planning use of Class E and was actively been used in line with that use.

6) With regard to "change of use" (first floor) and defined planning use class of C3, it is understood that change of use to a HMO (C4) of up to 6 persons, may be lawfully carried out under the GPDO. As you are probably aware, these works are substantially, if not fully complete and consist of 5no en-suite rooms. However, to qualify as an HMO, the development must meet the Housing Act 2004 definition, which involves some degree of shared facilities. On the Proposed Floor Plans submitted with the Certificate of Lawful Development application, the shared facilities for the HMO are situated on the ground floor, which of course we contend still has a defined planning use of Class E. However, regardless of if the LPA has determined the building has no defined planning use class or not, then as the application is to reinstate the previous use class, by definition, the ground floor would be reinstated to Class E.

This highlights contradictions in the application, as the description is for the ground floor Rooms 1, 2 & 3 to be assigned use Class E, with the ground floor kitchen / dining to be assigned use Class 4 and the ground floor Bin/Cycle Store to be assigned a "mixed use" of Classes E and C4.

7) In conclusion, we contend that this Certificate of Lawful Development application cannot be approved as it would not simply reinstate a previous use and confirm the legal status of the first floor change of use under permitted development, but would give approval to a change of use of 2 parts of the ground floor (outlined in para 6), which, as there is no allowance under the GPDO for change of use from Class E to C4, can only be approved by a way of a formal planning application.

Your comments would be appreciated.

Regards

[Redacted signature block]