

DELEGATED REPORT

Application No:	P/26/0137
Site Address:	Brynseion Buildings Foundry Place Twynyrodyn Merthyr Tydfil CF47 0RY
Development:	Certificate of Lawfulness existing use C3 dwellings - 4 no. apartments
Case Officer:	Gareth Davies
Site Visit:	26th June 2026
Application Expiry Date:	12th August 2026
Consultation reply date expired:	

APPLICATION SITE

The application property is a substantial two storey premises with dormer windows to the front and rear located on the eastern side of Sunnyside's junction with Twynyrodyn Road. The site has a limited curtilage which is open to the rear of the property providing a limited amount of parking space for residents. The property has two one-bedroom flats on the ground floor, a large three-bedroom flat on the first floor and a two-bedroom flat on the second floor which is accommodated in the roof space. The ground floor flats have individual entrances to the front of the property on Twynyrodyn Road whilst the flats to the first and second floors are accessed from the rear yard area on Sunnyside.

Access to the site is derived via the existing highway network which serves the wider area. The property and the surrounding streets are a variety of terraced houses and villas that are typical of traditional builds in this area whilst newer housing is located to the south west at Trevithick Gardens

PROPOSED DEVELOPMENT

This is an application for a Certificate of Lawfulness for an existing use under Section 191 of the Town & Country Planning Act (CLEUD) which seeks to establish that the flats as described above are lawful in planning terms and hence immune from any enforcement action under the Town and Country Planning Acts.

In support of the application, and in addition to the submitted plans outlining the current arrangements within the application property, the applicant has provided the following information: -

- A cover letter setting out the applicants' situation
- Tenancy agreements
- Utility bills
- Repair bills
- Bank statements
- Building control forms
- Council tax payments
- Photographs
- Inspection records, and;
- Insurance records

PLANNING HISTORY

None

CONSULTATION

None required or undertaken.

PUBLICITY

None required or undertaken given that the application is not seek planning permission.

POLICY CONTEXT

The determination of this application does not concern itself with the planning merits of the case consequently there are no local development plan policies that need to be taken into consideration.

National Guidance

The Development Management Manual provides guidance on the procedural aspects of the development management system.

Welsh Office Circular 24/97 Enforcing Planning Control Annexe 8 deals with "Lawfulness and Certificates of Lawfulness".

Paragraph 8.14 states that if the Local Planning Authority are supplied with information satisfying them of the lawfulness, at the time of the application, of the use operations or other matter described in the application... they shall issue a certificate to that effect.

PLANNING CONSIDERATIONS

The determination of the current application rests on the balance of probability supporting the use of the property as self-contained flats as described above. To that end the applicants have provided the information covered in the bullet points in the proposed development section of this report.

The application is submitted on the basis that Brynseion House is now four independent apartments which have existed continuously for a period exceeding four years and as such the use is immune from enforcement under Town and Country Planning legislation and a certificate confirming this is now sought under this application.

In considering the evidence provided in support of the application the agent has provided a table indicating time frames for the evidence submitted and the extent of time where each individual piece of evidence is relevant which is helpful in framing the evidence and its extent. The evidence is considered below.

The summary of the tenancy agreements are based on The Assured Shorthold Tenancy and Periodic Standard Occupation Contracts and demonstrate occupation of the four flats for different periods of time since 2017, and identify the flats as described by the applicant and agent. Despite the fact that there are occasional gaps in the tenancy documents it still demonstrates a consistent pattern of occupation since 2017 that is strong evidence in support of the application.

The energy bills submitted in support of this application offer corroborative evidence that Brynseion House has been occupied as four flats since at least 2017 and add weight to the claim of separate occupation of the four flat units as individual apartments, particularly in more recent years.

The repair bills offer a strong body of evidence to support the claim that Brynseion House has functioned as four flats for in excess of four years. The documents relate to repair and maintenance of the flats to all of the claimed flats and is a consistent evidential record from 2021 onwards. The frequency, nature and distribution across all four flats offer evidence of occupation and use of the flats requiring ongoing management and maintenance to sustain occupation of the individual units. Additionally, there is in some cases elements of repairs being undertaken whilst the flats are not occupied dovetailing with the need to maintain individual units to a standard for ongoing occupation.

The bank statements supplied in support of the application offer consistent evidence of payments being made to rent all four properties and is particularly strong from 2021 onwards. The statements record regular rental income being paid in respect of all four properties, which is sufficiently detailed to confirm that all four properties have been independently let over differing periods of time, generating income over sustained periods of time which is consistent with them being occupied independently.

The applicants have provided two building control notices confirming completion of works at flat 1b and flat 2 from April 2026. As these are relatively recent documents, they offer little other than to confirm that the Building Control department treated them as two separate residential units at the time of issue

The applicants have provided Council Tax records that appear to relate only to flat 1b that clearly illustrates that an element of the property has been taxed as a flat for the required period. They offer no evidence in respect of the other three flats and the payment of Council Tax. However, discussion with the Councils' Council Tax section has revealed that the property is now taxed as four individual properties though there is no concise start date for that in relation to each of the flats.

The photographic evidence submitted in support of the application relates to flats 1B, 2 and 2B and is particularly helpful in that it illustrates the nature of the layout of the building following works of refurbishment to each of the flats. The photographs from flats 1B and 2 are from more than four years ago whilst those from flat 2B are from 2025. The photographs show a wide range of residential accommodation providing living, cooking sleeping and bathing facilities being available to any resident. The photographs offer

corroborative evidence as to the use of the property as flats but are not in themselves conclusive.

The inspection records submitted by the applicants in support of the application cover all four flats and offer some consistent evidence that the property has been four flats between 2022 and 2026. The evidence includes gas safety records, mid tenancy inspection forms, an inventory report and maintenance invoices. Again, here the evidence best supports the claim in respect of flat 1B though it also provides solid evidence in respect of the remaining three flats.

The final evidence of occupation as four flats is an insurance policy record that demonstrates that the building was managed and insured as four independent properties. No such evidence is offered in respect of previous or subsequent years but as a snapshot in time that it is independent of the applicant it offers further strong corroborative evidence of the claim made.

CONCLUSIONS

The duty to improve the economic, social, environmental, and cultural wellbeing of Wales, in accordance with the sustainable development principle, under Section 3 of the Wellbeing of Future Generation (Wales) Act 2015 (“the WBFG Act”) has been taken into consideration when determining this application. In reaching the following recommendation , the ways of working set out in Section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by Section 8 of the WBFG Act.

The evidence submitted in support of the current application is a mosaic of information that has to be taken and considered collectively to arrive at a decision. The documentary evidence is described above, and some elements give stronger support to the claims being made than others, e.g. the building control notices offer very little being specific to time and place whilst the inspection records and repair bills offer much stronger evidence over a longer period of time.

There are gaps in the individual categories of evidence , these can to a large extent be explained by the availability of records, (or the lack thereof), and there is no evidence to suggest that there has been a cessation of use or of any intervening uses taking place at the premises. Taken as a whole the evidence provides a reasonably strong record of residential occupation and the management of that residential property extending certainly from 2020 and possibly from considerably earlier.

Applications for Certificates of Lawfulness do not require that the applicant provide absolute proof beyond any reasonable doubt, the threshold for acceptance is much lower as the applicant is only required to demonstrate that on the balance of probability that the use applied for is lawful in planning terms and consequently immune from enforcement action under the Town and Country Planning Acts. In this instance the evidence when considered as a whole satisfies that requirement and it is recommended that an appropriate certificate be issued.

RECOMMENDATION: CERTIFICATE of LAWFULNESS GRANTED for the following reason:

The applicant has provided sufficient evidence to demonstrate that on the balance of probability, the four existing flats have been used as separate residential units of accommodation for a continuous period of at least 4 years. Therefore, the proposal does not constitute development that requires planning permission.

RECOMMENDATION ENDORSED



Director of Neighbourhood Services

DATE: 04.08.2026