



Appeal Decision

by **Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP**

an Inspector appointed by the Secretary of State

Decision date: 15 August 2022

Appeal Ref: APP/U5930/X/20/3265910

26 Manor Road, Leyton, London E10 7AL

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Sajid Khan against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 203016, dated 2 October 2020, was refused by notice dated 24 November 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is use of a property as a house in multiple occupation (HMO) (Class C4) between 3-6 persons.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A site visit was not necessary to determine this appeal.

Main Issue

3. The main issue in this appeal is whether or not the Council's decision to refuse the LDC was well-founded

Reasons

4. The appellant has submitted the following comment with his appeal form:

"The actual use of the site at the time of the application to the LPA is that it is currently let privately under an assured shorthold tenancy agreement since 30 November 2018, as a C3 Dwelling House."

5. Article 3(1) and Schedule 2 Part 3 Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) provides general planning permission for development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation) of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO)¹.
6. However, the Council has introduced a Direction under Article 4 of the GPDO which came into force on 16 September 2014 and which removed the exercise of this Class L permitted development right throughout the Borough.

¹ Class C4 of the UCO concerns use of a dwellinghouse by no more than 6 residents as a house in multiple occupation (HMO).

7. This means that at the time of the application for the LDC it was unlawful to change the use of the property from C3 to C4 without the benefit of express planning permission, which did not exist.
8. It is not material to the appeal that the property is said by the appellant to have been in use as an HMO in the past since any acquired lawfulness for that use (whether through time or as a result of Class L) was lost when the use was changed to a C3 dwellinghouse in 2018.
9. This was communicated to the appellant by way of pre-application advice by the Council on 24 June 2020:

"However if the property has been in use as a sui generis HMO for in excess of 10 years, or was in use prior to September 2014 as a Class C4 HMO and continues to be [my emphasis], then you may be able to apply for a certificate of lawfulness to establish the use."

Conclusion

10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use of a property as a house in multiple occupation (HMO) (Class C4) between 3-6 persons was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andrew Walker

INSPECTOR