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# Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 26 September 2022

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**Appeal Ref: APP/W5780/X/20/3263862**

**38 Roy Gardens, ILFORD, IG2 7QQ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by MR AYOKUNLE O. ADEWOLE against the decision of London Borough of Redbridge.
  - The application ref 2144/20, dated 15 July 2020, was refused by notice dated 5 September 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 small HMO (Class C4) for up to six people.
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## Decision

1. The appeal is dismissed.

## Main issue

2. The main issue is whether the Council's refusal to grant a certificate of lawfulness in relation to use of the property as a small HMO for up to 6 people was well-founded.
3. The Houses in Multiple Occupation Article 4(1) Direction 2018 ('the Article 4 Direction'), made pursuant to the Town and Country Planning (General Permitted Development)(England) Order 2015, came into force on 6 December 2019 across the Borough of Redbridge. The Article 4 Direction withdrew permission for development consisting of the change of use of a building from a use falling within Class C3 (dwellinghouse) to a use falling within Class C4 (houses in multiple occupation).
4. The appellants case is that the change of use of the appeal property to Class C4 (house in multiple occupation) occurred before the Article 4 Direction came into force, namely on 21 May 2019. The sole evidence submitted in support of the appellant's case is an HMO licence of the same date which in fact licences the appeal property for a maximum number of persons permitted to occupy the house as 5. The licensing regime is separate from the permitted planning use.
5. The Council refused to grant the certificate of lawful development on the basis that sufficient evidence has not been submitted to establish on the balance of probability that the premises was in use as a small HMO before 6 December 2019. It is correct that the appellant would need to show that use of the property as a small HMO before the Article 4 Direction came into force, but they have not provided any evidence regarding the actual use of the house. The HMO licence is not proof that the house was actually used as an HMO from that date, but only that it was licensed to be used as such. The appellant has

not provided any evidence regarding the identities of residents or dates of occupation, nor details of any tenancy arrangements or payments of rent or other bills. There is simply no evidence before me to show how the property was used at any time.

6. The appellant is responsible for providing sufficient information to support an LDC application but has not done so in this case.

### **Conclusion**

7. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use as a small HMO (Class C4) 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.

*Zoë Franks*

INSPECTOR