



Appeal Decision

by Siobhan Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Appeal Ref: APP/Z4310/X/24/3338654

110 Thornycroft Road, Liverpool, L15 0EW

- 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 Abu Sahied Ahmed against the decision of Liverpool City Council.
 - The application ref 23LE/2365, dated 21 September 2023, was refused by notice dated 14 November 2023.
 - 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 C4 house in multiple occupation.
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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 LDC was well founded.

Reasons

3. Advice relating to LDCs is provided by the Government's Planning Practice Guidance. This establishes that the applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Planning merits are not relevant.
4. Section 191(2) of the Act states that:
5. For the purposes of this Act uses and operations are lawful at any time if—
 - (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
 - (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

6. I have not been referred to any enforcement notice, so my decision hinges solely on s191(2)(a).
7. An Article 4 Direction removing permitted development rights for a change of use from a C3 dwellinghouse to a C4 small house in multiple occupation (HMO), came into effect on 17th June 2021 and therefore, for the HMO to be lawful, it must have come into use before that date and there must have been no subsequent change of use. Alternatively, there must have been a relevant grant of planning permission.
8. The Council states that planning permission to use the premises as a house in multiple occupation for 6 persons was refused on 16 November 2022.
9. Information provided by the appellant, including the planning application form and the application form for the LDC, states that the property was a 3- bedroom "single dwelling" which was converted into a 6-bedroom HMO in 2023. The appellant also states that a tenancy agreement was signed for up to 6 people in May 2023. On the balance of probabilities, therefore, the use as an HMO began without planning permission after the Article 4 Direction came into effect.
10. The onus of proof is firmly on the appellant to provide evidence which is sufficiently precise and unambiguous to justify the grant of a certificate. Overall, I find that the appellant's evidence, on the balance of probabilities, does not meet this requirement. As with all LDC applications, it is open for fresh applications to be made if, for example, other evidence comes to light.

Conclusion

15. For the reasons given above I conclude that the Council's refusal 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) and dismiss the appeal.

Siobhan Watson

INSPECTOR