
Appeal Decision

Site visit not necessary

by **D Hartley BA (Hons), MTP, MBA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

Appeal Ref: APP/Z4310/X/24/3348111

50 Russian Drive, Liverpool, L13 7BT

- 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 Miss Keren O'Rourke against the decision of Liverpool City Council.
 - The application ref 24LE/0648, dated 8 March 2024, was refused by notice dated 3 May 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended (the Act).
 - The use for which a certificate of lawful use or development is sought is a house of multiple occupation for 3-6 persons (use class C4).
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 17 January 2025.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Application for costs

2. An application for an award of costs has been made by Liverpool City Council against the appellant. This application is the subject of the separate Decision.

Main Issue

3. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that planning merits are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
4. The main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether the evidence demonstrates that on the date of the LDC application, 50 Russian Drive was lawfully a house in multiple occupation (HMO) for 3-6 persons (use class C4).

Reasons

5. The evidence is that on 17 June 2021 an Article 4 Direction for the area came into force which removed permitted development rights for the change of use of a C3 dwellinghouse to a C4 HMO. The appellant's evidence relating to the use of the property as a C4 HMO includes tenancy agreements; HMO licenses; Council tax bills; a statutory declaration from the appellant; a room occupancy table; a schedule of rent payments; extracts of bank statements; copy bank statements showing rent payments; a building regulation completion certificate for the

conversion in 2018; Council tax payment summary and copy invoices; photographs; a letter to the Council from the appellant dated 16 May 2024; electrical and gas certificates, and a mortgage valuation from 2018.

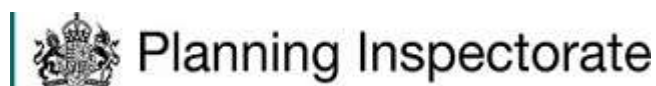
6. At the time of the LDC application, the Council assumed that the tenancy agreements were for only six months and hence that occupation of the property by individuals was no longer than six months. However, the evidence is that clause 4.2 of such tenancy agreements states that there is no requirement for a new tenancy agreement after the six-month period. It states that such an agreement would become a periodic tenancy agreement subject to the consent of the landlord.
7. The Council states that it was not aware of the above when it refused the LDC application and, based on the evidence that now accompanies the appeal, they *'will not be contesting the appeal'*.
8. I have considered all the evidence submitted as part of this appeal. On the balance of probability, I also find that the evidence sufficiently and unambiguously demonstrates that the property was in use as a C4 HMO on and prior to the Article 4 Direction coming into force, and that it has been continuously occupied as such until the date of the LDC application, i.e., 8 March 2024. In this regard, I find that when the LDC application was made, the property was lawfully being used as a use class C4 HMO. Indeed, a change from a use class C3 dwellinghouse to a use class C4 HMO does not amount to a material change of use given Part L of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Hence, use of the property as a use class C4 HMO does not amount to development requiring planning permission given section 55(1) of the Act.

Conclusion

9. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a house of multiple occupation for 3-6 persons (use class C4) was not well-founded and the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

D Hartley

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 8 March 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

No. 50 Russian Drive was in use as a C4 HMO on and prior to 17 June 2021 (i.e., when the Article 4 Direction for the area came into force which prohibited the permitted change from use class C3 to use Class C4) and has remained as such continuously until the date of the application. Use of No. 50 Russian Drive as a use class C4 HMO does not amount to a material change of use of the building and hence is not development requiring planning permission.

Signed

D Hartley

Inspector

Date: 5 February 2025

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First Schedule

A house of multiple occupation for 3-6 persons (use class C4).

Second Schedule

Land at 50 Russian Drive, LIVERPOOL, L13 7BT

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 5 February 2025

by D Hartley BA Hons), MTP, MBA, MRTPI

Land at: 50 Russian Drive, Liverpool, L13 7BT

Reference: APP/Z4310/X/24/3348111

Scale: Not to Scale

