



Appeal Decision

Site visit made on 25 February 2025

by **A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC**

an Inspector appointed by the Secretary of State

Decision date: 7 March 2025

Appeal Ref: APP/U4610/X/24/3339610

21 Shakleton Road, COVENTRY, CV5 6HT

- 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 Shakila Darr against the decision of Coventry City Council.
 - The application ref PL/2023/0002096/LDCE, dated 29 September 2023, was refused by notice dated 10 January 2024.
 - 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 HMO converted from C3 dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Since the appeal was submitted a roof extension has been constructed at the appeal site pursuant to application reference PL/2003/0001904/LDCP. The roof extension accommodates an additional two bedrooms and therefore the property now has five bedrooms. However, I have determined the current appeal on the basis of the property as it existed at the time the original LDC application was submitted.

Main Issue

3. The main issue is whether the Council's decision was well-founded. That will turn on whether the appellant has proved on the balance of probability that the use of the property changed to use as a C4 HMO on or before 29 September 2023 soon after which date an Article 4 Direction was adopted which removed permitted development change of use from Use Class C3 to Use Class C4.

Reasons

4. It is my understanding that the appeal property was used as a C3 dwellinghouse until the appellant purchased it on 26 September 2023. The property was marketed as a HMO by a company that matches students with accommodation. The evidence before me is that the appeal property was matched with a group of 3 unrelated students who moved into the property on the 29 September 2023. From that date, it is contended that the property was occupied as a C4 HMO until 18 November 2023 when the tenants moved out having found alternative accommodation.

5. On 30 September 2023 an Article 4 Direction came into force for a number of Wards, including Whoberley, where the appeal property is located. This removed the permitted change of use from C3 to C4 from that date, meaning that such a change would require planning permission. The appellant contends that because the change of use of the appeal property took place before 30 September 2023, the use of the property as a small HMO was a lawful permitted change of use for which no planning permission was required. The LDC application was signed and dated 29 September 2023.
6. PPG sets out that the onus of proof is on the applicant and provides that if local planning authorities have no evidence of their own to contradict or undermine the applicant's version of events, there is no good reason to refuse the application provided that the applicant's evidence is clear and unambiguous to justify the grant of a certificate. The relevant test is the balance of probability.
7. In support of the application, the appellant submitted the following evidence:
 - Statutory Declaration 22 November 2023;
 - Statutory Declaration of Open Doors Property Ltd dated 6 December 2023;
 - Statutory Declaration of a former occupant dated 6 December 2023;
 - Handover Statement 010923 dated 1 September 2023;
 - Plan number SR/No21/LCDE/001 Rev A dated September 2023;
 - Tenancy Agreement dated 29 September 2023; and
 - HMO Licence application submitted on 29 September 2023.
8. The LDC application form states that the C4 HMO use started on the same date the application was submitted 29 September 2023. The Open Doors Property Ltd Statutory Declaration confirms that the property was occupied by 3 unrelated individuals from 29 September 2023 and the Tenancy Agreement is signed and dated 29 September 2023 by those same individuals, one of whom has stated in a Statutory Declaration that they occupied the appeal property prior to 30 September 2023. The HMO application was also submitted on 29 September 2023. Title deeds evidence also corresponds with the appellant's statement that the property was purchased on 26 September 2023.
9. The Handover Statement from Unac Student Accommodation is dated 1 September 2023. This identifies the appeal site address, the appellant's name and the 3 tenants identified in other submitted documentation. The appellant states that the fees in question were due on 1 September 2023 so the students could occupy the property during September at the start of the academic year. However, that does not make sense because the appellant did not purchase the property until 26 September 2023. It is not clear why the document was to the appellant who at the time had no interest in the land. Furthermore, it is not clear how the appellant had apparently agreed to rent the property to 3 unrelated individuals without having any legal interest in it. Therefore, there is some ambiguity and lack of clarity in the evidence submitted which is not precise in all matters. As such the appellant has failed to discharge the burden of proof.

Conclusion

10. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for C4 HMO converted from C3 dwellinghouse is 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).

A A Phillips

INSPECTOR