



Appeal Decision

Site visit made on 1 April 2025

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 4th April 2025

Appeal Ref: APP/P0119/X/24/3350536

19 Braemar Avenue, Bristol, BS7 0TA

- 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 Alexander Kiaii against the decision of South Gloucestershire Council.
 - The application ref P24/00054/CLE, dated 8 January 2024, was refused by notice dated 22 February 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 use as a house in multiple occupation.
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Decision

1. The appeal is dismissed.

Reasons

2. Ordinarily a change of use from a dwelling in C3 use to a small HMO (for 6 persons or less), is permitted development. However, on 10 January 2024 an Article 4 Direction came into force removing that right, and so from that date on such a change of use would require planning permission. The issue here therefore is whether the change of use took place before January 2024.
3. The appellant has provided an HMO licence which was granted by the Council on 28 November 2023. However, that does not show the HMO use began on that date. An unsigned tenancy agreement dated 15 August 2023 is also provided detailing 6 separate tenants. The appellant offers to show rental records but does not provide them.
4. The Council say that had they seen the AST at application stage they may have reached a different conclusion, but I am not so sure. The AST is unsigned and there is no evidence it was ever agreed by the tenants. Indeed there is no evidence the property was occupied before January 2024 at all. The required test is not “to precisely or unambiguously demonstrate” but whether on the balance of probabilities the use began before January 2024. It is possible that it did, but really, without any specific evidence, I cannot say that on the balance of probability that it did. In particular, as the dates are so close to the cut off, a delay of even a few weeks would take the change of use beyond the date of the issue of the Article 4.

Conclusion

5. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development for the use of 19 Braemar Avenue as a

house in multiple occupation 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).

Simon Hand

INSPECTOR