



Appeal Decision

Site visit made on 20 May 2025

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2025

Appeal Ref: APP/Z0116/X/24/3355690

19 Albany Road, Montpelier, Bristol, BS6 5LQ

- 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 Suzanne Rosenfeld against the decision of Bristol City Council.
 - The application ref 24/03783/CE, dated 26 September 2024, was refused by notice dated 7 November 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 an existing HMO.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The change of use from a dwellinghouse falling within Use Class C3 to a House in Multiple Occupation (HMO) falling within Use Class C4 is ordinarily permitted development, pursuant to Class L of Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015. However, the appeal site lies within an area that is subject to an Article 4 Direction which removes this permitted change of use and therefore such a change requires the specific grant of planning permission.
3. It therefore follows that in this case, the main issue is whether or not the appellant has proved on the balance of probabilities, that use of the building as an HMO falling within Use Class C4, began on or before 26 September 2014, and continued without significant interruption for ten years after the date of the change.

Reasons

4. The burden of proof falls to the appellant to establish that the use of the property as an HMO commenced at least 10 years before the date of the application on 26 September 2024 and continued without any significant interruption thereafter. The appropriate standard for testing the evidence is on the balance of probabilities, which is whether something is more likely than not.
5. In support of the application, copies of HMO licences have been submitted. The first came into effect on 6 December 2006 and remained in effect for a period of five years, with the second being effective from 2 April 2012 covering another five-year period. In addition, a third licence is provided being in effect from 13 January 2023 and also lasting for five years. While these are noted, they do not cover a continuous period and there are gaps ranging from around six months to over five

years. Furthermore, while they are suggestive of the use of the property as an HMO, they do not actually demonstrate such a use has taken place. These do not show that the property has been occupied and used as an HMO, rather than just being licenced as such.

6. A copy of a Tenancy Deposit Protection Certificate has also been submitted which shows that the deposit of tenants was protected between 1 August 2013 and 31 July 2014. While this is noted, it only covers a single year and does not demonstrate any ongoing occupation of the property.
7. I am conscious that the appellant has commented that they have details of accounts showing that the property has been constantly tenanted since they purchased it in 1999. However, this information has not been submitted. Moreover, there is none of the evidence that would be expected, such as copies of tenancy agreements, statements from previous residents, or the like, which would show the ongoing and unbroken use of the property as an HMO.
8. While it is open to the appellant to make a further application to the Council with additional evidence, considering the scant information that has been submitted with the appeal, the appellant has not demonstrated, on the balance of probabilities, that the property has been in use as an HMO for a period in excess of 10 years.

Conclusion

9. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for an existing HMO 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).

Martin Allen

INSPECTOR