
Appeal Decision

Site visit made on 9 June 2025

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 July 2025

Appeal Ref: APP/U4230/X/24/3356560

16 Springfield Lane, Salford M3 7FH

- 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 Ms C Buchanan & Mr C Gates against the decision of Salford City Council.
 - The application ref PA/2024/0987, dated 26 June 2024, was refused by notice dated 12 August 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 described as “C3 Residential Use Classification and it can also be used as a Short Term Rental.”
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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.

Procedural Matters

2. The Council determined the LDC application on the basis that an LDC was sought for the use of the property as a C3 use as well as a short-term rental property because it had been in such use for 10 years and therefore was immune from enforcement action. Based on the details completed in the application form, notably the section titled “Grounds for application for a Lawful Development Certificate”, within which the appellant ticked the box for “The use began more than 10 years before the date of this application”, I understand why the Council determined the application on the basis for which it did.
3. Nevertheless, the appellant now confirms that a certificate is sought on the basis that the use of the property as a short-term rental property in addition to being used as a dwelling does not require planning permission as no material change of use has occurred.
4. Whilst, in general, planning appeals should be determined on the same basis as the original application, s195 appeals are different. S195 of the Town and Country Planning Act 1990 (the Act) refers to the ‘refusal’ being well-founded – meaning the Council’s decision, not the reasons for the decision. Moreover, the application being appealed is made to ascertain what is or would be lawful. Accordingly, parties and interested persons may submit additional evidence as part of the appeal which was not before the Council at the time of its decision.
5. Given the above, I have determined the appeal on the basis that a certificate is sought for the use of the appeal property as a dwelling and a short-term rental on the grounds that there is no material change of use of the property. The Council

contend that on this basis the LDC application should have been made under s192 of the Act. However, as the appellant is seeking to establish whether an existing use is lawful, the LDC application was correctly made under s191.

Main Issue

6. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

7. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Town and Country Planning Act 1990 (the Act) if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous.
8. The lawful use of the appeal property is use class C3 Dwellinghouses, of the Town and Country Planning (Use Classes) Order 1987 (as amended). Use class C3 encompasses a use by a single person or family (referred to as a single household) or, where the household is comprised of a group of unrelated people, not more than 6 residents living together as a single household.
9. Section 55 of the Act defines 'development', and this includes the making of any 'material change in the use' of any building or other land. Therefore, for a change of use to be development, it needs to be a material change. The meaning of 'use' is provided in s336(1) of the Act, but the concept of a 'material change of use' is not defined in statute. The use of a dwellinghouse for commercial holiday lettings will not always amount to a material change of use, nor is it the case that such a use can never amount to a material change of use. To establish whether a material change of use has occurred a comparison between the actual use and the previous use needs to be made, as opposed to considering a hypothetical range of activities. For a material change of use to have occurred, there must be some significant difference in the character of the activities, from what has gone on previously. The assessment is a matter of fact and degree, for the decision maker to determine on the available evidence.
10. The appellants live in the appeal property but work away for much of their time. It is during this time away that the property is available for short term rent from between 2 and 27 nights at a time, with the average rental period being 4 nights. The property is let out on a whole property basis. Based on the layout of the property, it could accommodate up to four guests in the two double bedrooms.
11. Given the limited number of guests the property can accommodate, it is reasonable to conclude that its occupants could be a single household, eg if the guests were a small family. However, there may be times when it is occupied by two or more unrelated guests. Given the limited time they would likely occupy the property, it is unlikely in such circumstances that they would be able to form a

single household. Therefore, on such occasions the use of the property would change. However, the crux of the matter is whether it would amount to a material change of use.

12. The only change in the character of the property between when it is occupied by the appellants and when it is occupied by guests is that there would be regular change overs between guests. However, due to the limited number of guests, such change overs would not likely be discernible to neighbouring residents, no more so than a small family leaving/returning to the house for/from work and school at the same time.
13. Moreover, with the property only occupying up to four guests at a time, it is unlikely there would be any unneighbourly activities such as parties late at night or significant levels of noise and disturbance.
14. I acknowledge that the property is available for rent for up to 200 days a year, and therefore could potentially be occupied as a short-term rental more than it would as a C3 dwellinghouse. However, even if it was to be occupied for 200 days, the activities associated with the rental would not be materially different to those of the dwelling.
15. I have had regard to the appeal decisions referred to me by the Council. The Oxford appeals¹ concerned a larger property capable of occupying at least 8 guests. The Inspector noted 'the character of STLA [short term let accommodation] of such size in this location is therefore very different to that of the former use as a C3 dwellinghouse'. This highlights the size of the accommodation as being a material factor in determining whether there is a material change of use. Given the significant difference in the size of the accommodation in the Oxford case compared to the appeal before me, I do not find that there are direct comparisons that weigh in favour of dismissing the appeal.
16. The Islington appeal² related to a planning application, not an LDC application. More importantly, the site was located within Greater London and therefore planning permission was required as a result of section 25A into the Greater London Council (General Powers) Act 1973 (the 1973 Act), which states '...the use as temporary sleeping accommodation of any residential premises in Greater London does not involve a material change of use if... the number of nights of use as temporary sleeping accommodation, and the number of nights (if any) of each previous use of the premises as temporary sleeping accommodation in the same calendar year, does not exceed ninety.' As the proposal was for short-term letting for no more than 180 days in any one calendar year, by virtue of the 1973 Act, a material change of use had occurred and planning permission was required. As the appeal site before me lies outside Greater London, the 1973 Act does not apply.
17. Accordingly, I find the characteristics of the use of the property as a short-term rental is not materially different to its use as a dwelling and therefore find that no material change of use of the property has occurred from its lawful C3 use. It is therefore lawful.

¹ Appeal refs: APP/G3110/C/23/3335859 and APP/G3110/W/23/3335902

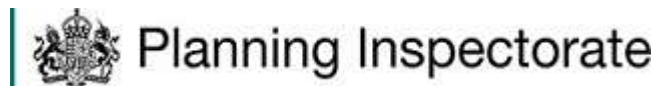
² Appeal ref: APP/V5570/W/18/3205887

Conclusion

18. For the reasons given above, I conclude, on the evidence available, that the Council's refusal to grant a certificate of lawful use or development is not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

A Walker

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 26 June 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:

The use of the appeal property as C3 Residential Use Classification and a Short Term Rental does not amount to a material change of use and therefore no development has occurred.

Signed

A Walker

Inspector

Date: 9 July 2025

Reference: APP/U4230/X/24/3356560

First Schedule

C3 Residential Use Classification and Short Term Rental

Second Schedule

Land at 16 Springfield Lane, Salford M3 7FH

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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:9 July 2025

by A Walker

Land at: 16 Springfield Lane, Salford M3 7FH

Reference: APP/U4230/X/24/3356560

Scale: Not to Scale

