



Appeal Decision

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 28 July 2025

Appeal Ref: APP/G3110/X/25/3360588

165A Kingston Road, Oxford, Oxfordshire OX2 6EG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Daniel Parrott (Hutong Properties Limited) against the decision of Oxford City Council.
 - The application Ref 24/01623/CEU, dated 5 July 2024, was refused by notice dated 25 September 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 use as a House in Multiple Occupation (Use Class C4).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Due to the locus of the Decision being concerned with the sufficiency of evidence submitted as to lawfulness, it was not necessary for me to conduct a site visit to determine the appeal. The Decision was made on the evidence.

Main Issue

3. The main issue is whether or not the Council's refusal of the LDC was well-founded.

Reasons

4. A LDC is sought to certify lawful use, at the date of the application, as a House in Multiple Occupation (HMO) under Use Class C4 of the Town and Country Planning (Use Classes) Order 1987 ('the Use Classes Order'). That is to say, use of a dwellinghouse by not more than 6 residents as a HMO.
5. The provisions of section 171B(3) of the Act provide that, as regards the breach of planning control constituted by the unauthorised change of use to Use Class C4, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach. Accordingly, for lawfulness under section 191(2) of the Act, it is for the appellant to demonstrate (on the balance of probabilities and with sufficiently precise and unambiguous evidence) that there has been continuous C4 use for at least a 10 year period.
6. The application form says that such use started on 28 September 2012 and occurred continuously since that date, evidenced it is said by HMO licences for the property. Various other pieces of evidence have also been submitted.

7. Significantly, however, the appellant has submitted a tenancy agreement for the period 26 September 2014 to 25 August 2015 for 7 persons permitted to reside at the property (signed and dated by each of the 7 residents)¹.
8. Accordingly, on the balance of probabilities, I do not find that C4 use was in occurrence between those dates. Rather, I find that the property was being used as a *sui generis* large HMO outside of the C4 definition set out within the Use Classes Order and which I find as a matter of fact and degree to be a materially different use (due to the likely effects of the larger number of residents upon the intrinsic character of the use and upon external impacts).
9. Therefore, a 10 year continuous period of C4 use has not been demonstrated and lawfulness had not been accrued by the date of the LDC application².

Conclusion

10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use as a House in Multiple Occupation (Use Class C4) was 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.

Andrew Walker

INSPECTOR

¹ I also note from the Council's submissions that a HMO licence for 7 occupants was issued from 10 September 2013 to 10 September 2014, notwithstanding that the appellant has not provided any tenancy agreements for that period.

² In coming to this finding I have taken into account the statutory declaration by Draxmont Limited, which declares use of that property since that company's ownership of it to be as a HMO for students. While I agree on the evidence that the property has been used as a HMO for a long period, the apparent material change(s) of use between materially different types of HMO has led to the appeal failing on the basis I have set out in my reasons.

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