



Appeal Decision

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 01 August 2025

Appeal Ref: APP/U5930/X/24/3337106

55 Bromley Road, Walthamstow, LONDON, E17 4PR

- 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 Mr Mohammed Aslam against the decision of Waltham Forest London Borough Council.
 - The application ref 232270, dated 14 September 2023, was refused by a notice dated 9 November 2023.
 - 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 a small house in multiple occupation (HMO) (Use Class C4).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Considering the matters at appeal it was not necessary to visit the appeal premises. I have therefore made my decision based on the representations and supporting information submitted by the main parties as a matter of course as part of the application and appeal process.
3. Section 194(4) of the Town and Country Planning Act 1990, as amended, indicates that if, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The planning merits of the development are not relevant in this appeal.

Main Issue

4. In order for a lawful use or development certificate (LDC) to be granted under section 191 of the Act, the burden of providing relevant facts in this appeal rests on the appellant, and the test of the evidence is the balance of probability. If there is no evidence to contradict or make the appellant's version of events less than probable and the appellant's evidence alone is sufficiently precise and unambiguous, a LDC should be granted.
5. The main issue is whether the Council's decision to refuse to grant a LDC was well founded. That turns on whether the appellant can demonstrate, on the balance of probabilities, that the change of use to a small house in multiple occupation (HMO) took place prior to the Council's introduction of an Article 4 Direction which came

into force on 16 September 2014 and there has been no subsequent change of use since that use became lawful. The Article 4 Direction under the Town and Country Planning (General Permitted Development) (England) Order, 1995, as amended (GPDO), directed that permission granted by Article 3 of the GPDO shall not apply to development consisting of a change of use of a building to a use falling within Class C4 (HMO) from a use falling within Class C3 (dwellinghouses). The relevant date in this instance is therefore 15 September 2014.

Summary of Cases

6. The appellant maintains that the property has been in continual use as a small five-bedroom HMO since 2007 and at no time during that period was it used as a single dwellinghouse. Evidence provided includes: location/floor plans of the appeal property; sworn affidavits by the appellant Mr Aslam and by an administrator at Forest Care Services, Mr Ahmed, who procured the property from Mr Aslam for use between 2007 and 2015; a witness statement from a previous tenant; copies of tenancy agreements; WhatsApp message screenshots, and history of tenant occupation.
7. The Council do not consider the evidence submitted to be sufficiently precise and unambiguous to demonstrate on the balance of probabilities that the property was occupied as an HMO prior to 15 September 2014 and continued to be occupied on that basis.

Reasons

8. The Town and Country Planning (Use Classes) Order 1987, as amended (UCO), states that for the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004. Class C4 of the UCO provides for the use of a dwellinghouse as an HMO by not more than six residents: that is up to six unrelated individuals who share basic amenities.
9. Floor plans submitted with the application show a kitchen, five bedrooms, a first floor bathroom and a downstairs toilet accessed from the garden. It is understood from the sworn Affidavits that the property was procured from the appellant by Forest Care Services between February 2007 and April 2015. Copies of two shorthold tenancy agreements, dated May 2012 and July 2014 between the appellant and Forest Care Services Ltd have been provided, together with a copy of an invoice for the first month’s rent, dated 13 February 2007. I have also seen copies of email correspondence between the appellant and Forest Care Services during 2012/13 relating to repairs and a rent review.
10. Mr Ahmed confirms in his Affidavit that Forest Care Services Ltd provided accommodation for unaccompanied minors and children in care. He states at paragraph 8 that Mr Aslam’s property was let to unaccompanied minors/children in care, vulnerable adults/refugees/asylum seekers, etc. However, it is not clear what the tenant arrangements were, who actually occupied the property, which rooms, when they occupied them and on what basis. It seems to me that if the property provided accommodation for unaccompanied minors and children in care, as stated by Mr Ahmed, then there must have been some care package for those children. The email correspondence accompanying Mr Ahmed’s Affidavit which discussed a rent review, suggests that Local Authority Social Services may have

been responsible for the placement of some of the occupiers?¹ Thus, whilst Mr Ahmed is clear that the property was not rented out as a single dwellinghouse, nor as a care home, the details of what accommodation and support was provided to those children in care, is unclear and ambiguous. There is no substantive evidence to demonstrate that the property was used as an HMO during Forest Care Services Ltd occupation of the property and that its use was not a use falling within Class C2 or C3 (b) of the UCO.

11. The only substantive evidence available to support Mr Ahmed's Affidavit and provide any indication of the actual use of the property by Forest Care Services Ltd are the two shorthold tenancy agreements, dated 2012 and 2014. However, those agreements relate to the rental of the property as a whole, and not to its individual rooms. In addition, they do not provide any information of actual occupation to demonstrate who the rooms were rented out to and when they were occupied. The invoice for a month's rent (February 2007) also provides no evidence of occupation as an HMO.
12. Overall, therefore, I consider that whilst the Council do not have any information that would contradict the appellant and Mr Aslam's version of events, the information submitted with the LDC application in relation to the use of the property by Forest Care Services Ltd between 2007 and April 2015, is not sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, that the property was in use as an HMO (Class C4) during that time, and thus prior to the relevant date, 15 September 2014. Considering my finding on that period of occupation, it is not necessary for me to consider the additional information submitted which related to the property's use post April 2015, which when considered alone (8 years between 2015 and 2023) would not provide sufficient evidence to demonstrate the 10 years necessary to provide immunity from enforcement action.

Conclusion

13. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for use as a small house in multiple occupation (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.

Elizabeth Pleasant

INSPECTOR

¹ Email correspondence date 9 May 2013 from Forest Care. Exhibit IA4. Affidavit of Iram Ahmed.