



Appeal Decision

Site visit made on 10 June 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Appeal Ref: APP/G5180/X/23/3334426

54 Homesdale Road, Bromley BR2 9LD

- 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 Dr Ning Zhang against the decision of the Council of the London Borough of Bromley.
- The application ref DC/22/04714/ELUD, dated 28 November 2022, was refused by notice dated 3 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 C4 HMO.

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.

Applications for costs

2. An application for costs was made by Dr Ning Zhang against the Council of the London Borough of Bromley. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant states that the property has been used as a C4 HMO since August 2022, before Article 4 was introduced. It is clear from the description used on the application and from the appellant's evidence that they are seeking an LDC for a C4 HMO. I have therefore used this description in the banner heading above.

Main Issue

4. The main issue of the appeal is whether the Council's decision to refuse the certificate of lawfulness is well-founded.

Reasons

5. Section 191(1) of the Act provides that if any person wishes to ascertain whether (a) any existing use of buildings or other land is lawful; (b) any operations which have been carried out in, on, over or under land are lawful; or (c) any other matter constituting a failure to comply with any condition or limitation subject to which Planning Permission has been granted is lawful – they may make an application for the purpose to the LPA, specifying the land and describing the use, operations or other matter.
6. In an LDC, the burden of proof is firmly on the appellant to make their case, to the civil standard, which is the 'balance of probabilities'. An appellant's evidence should not be rejected simply because it is not corroborated. If there is no

evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

7. Part 3, Class L of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) permits development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule. The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Class C4 Houses in multiple occupation as Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.
8. On 1 September 2022 a borough-wide Article 4 Direction came into effect which directs that permission granted by the GPDO shall not apply in respect of C4 HMOs. The main thrust of the appellant’s case is that the use of the property as a C4 HMO began before 1 September 2022, before an Article 4 Direction was introduced. This appeal will therefore turn on whether the material change of use of the property to a C4 HMO occurred before 1 September 2022 and continued thereafter without a subsequent material change of use.
9. The appellant states in their application form that the use begun on 2 August 2022. The Council has provided a land registry document which shows that money was paid for the property on 15 August 2022. The appellant has provided a statutory declaration signed by the owner of the property, confirming that they purchased the property as a self-contained dwelling house with a C3 use in August 2022 and between 26 and 27 August 2022, they let the property to three tenants who lived in the property as a small House of Multiple Occupation. While this is inconsistent with the dates provided on the land registry document, the appellant does not suggest that actual occupation occurred until the 26 and 27 of August.
10. To support their case, the appellant has provided tenancy agreements, tenancy deposit protection certificates and letters signed by the tenants, confirming when they moved in and that they have used it as their permanent home, sharing amenities including the kitchen and bathroom. While the letters are not witnessed, they are consistent with the tenancy agreements and deposit certificates provided. Furthermore, the appellant has provided a statutory declaration confirming that all three tenants were living in the property as of 27 August 2022 and have continued to do so up to the present day¹.
11. An interested party suggests they have lived close to the appeal property for over 18 years and that they have been under the impression that the address has never been a house of multiple occupancy. However, it is not clear from their response how close they have lived, or how they would know whether the premises has been used as an HMO. The owner of the appeal property states that they have never met or communicated with this neighbour, and that the interested party has never been into the appeal property while they have owned it. It therefore seems unlikely the interested party would know whether or not the property has been used as a C4 HMO. Indeed, the Council does not dispute that the property is currently being used as such.
12. The Council has provided me with an application for a lawful development certificate, dated 1 September 2022, for a loft conversion. The applicant describes

¹ 20 November 2023, which is the date of the Statutory Declaration.

the premises as 'C3 – Dwellinghouses'. The appellant states that they had not informed their architect that it was their intention to change the use of the property to a C4 HMO at the end of August 2022. As pointed out by the appellant, permitted development rights would have applied to the property, since the premises would still have been a dwellinghouse for the purposes of the GPDO. Although the application form was signed on 1 September 2022, it is likely that the architect would have visited the premises prior to this to enable them to produce the plans. Consequently, the appellant's explanation, that they omitted to share their intentions with their architect, is a plausible one.

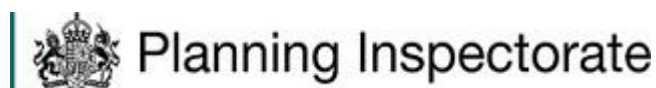
13. I have been provided with a Zoopla listing, dated 5 April 2022, which describes the property as a 2 bed terraced house, with a large through lounge diner, a large upstairs bathroom w/c, two double bedrooms and a large kitchen. The Council suggests that it is implausible that the property could have been adapted to an HMO and let out in such a short space of time between the appellant's acquisition of the property on 15 August 2022 and 26 and 27 of August 2022. However, the appellant suggests that there is very little work that goes into the creation of a small HMO and, from my inspection of the appeal site and comparison with the Zoopla listing mentioned above, I would agree that limited works are likely to have taken place prior to the premises being occupied.
14. Although Council Tax information does not show that the property was banded as a HMO, it is not unusual for HMOs to be banded as a single property. Furthermore, Council Tax banding operates under different legislation and is not determinative as to how a property has been used. The appellant has provided me with a document produced by the Council, which advises that an HMO will require a licence if it is occupied by five or more persons. Since the property has been used by 4 persons, it is therefore not surprising a licence has not been applied for in this case.
15. Although the appellant has not provided bank statements, utility statements or applications for the electoral roll, the evidence provided is generally consistent with the appellant's claim and in my view demonstrates, on the balance of probabilities that the material change of use to a C4 HMO occurred before 1 September 2022 and has continued to be used in this way thereafter without a subsequent material change of use.

Conclusion

16. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for use as C4 HMO is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

M Savage

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 28 November 2022 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 property as a C4 House in Multiple Occupation began before 1 September 2022 and was development which was permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) and has continued to be used in this way thereafter without a subsequent material change of use.

Signed

M Savage

Inspector

Date: **22 August 2025**

Reference: APP/G5180/X/23/3334426

First Schedule

Use of the property as a Use Class C4 House in Multiple Occupation (HMO)

Second Schedule

Land at 54 Homesdale Road, Bromley BR2 9LD

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: 22 August 2025

by M Savage

Land at: 54 Homedale Road, Bromley BR2 9LD

Reference: APP/G5180/X/23/3334426

Scale: Not to Scale

