



Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 SEPTEMBER 2025

Appeal Ref: APP/C2741/X/25/3362223

29 Ratcliffe Street, York, YO30 6EN

- 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 Mrs Lee-Anne Greenaway against the decision of City of York Council.
 - The application ref 24/00123/CLU, dated 2 February 2024, was refused by notice dated 10 March 2025.
 - 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 House in Multiple Occupation (Use Class C4).
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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.

Main Issue

2. The main issue is whether the use of the appeal property as a House in Multiple Occupation under Use Class C4 was lawful on 2 February 2024.

Reasons

3. The appeal property is located within the area covered by the Direction made by the Council on 15 April 2011 under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 ("the Article 4 Direction"). The Article 4 Direction came into effect on 20 April 2012 and removed the permitted rights for a change of use of a building from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation). The change from a C3 to C4 use was permitted development for the appeal property under the GPDO 1987 prior to the Article 4 Direction coming into effect.
4. The appellant must therefore show on the balance of probability that either the use of the property as a small HMO began before the Article 4 Direction came into effect, or if the change happened after this date, that it has continued substantially uninterrupted for a period of 10 years.
5. Planning Practice Guidance advises that the applicant is responsible to providing sufficient information to support an application, and if a local planning authority has no evidence itself, nor any form other, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the evidence is sufficiently precise and unambiguous to justify the grant on the certificate on the balance of probability.

6. The appellant has provided a sworn affidavit which unequivocally states that she has owned the property since November 2006, and has let it as a house in multiple occupation to no less than 3 and no more than 4 unrelated occupiers throughout her ownership. The appellant also confirms that the property was being used for this purpose and in this way immediately before the Article 4 Direction came into effect. The appellant has provided corroborating evidence in a letter from her accountant which states that they have been submitting HMO rental figures on her behalf in respect of the property since 2006.

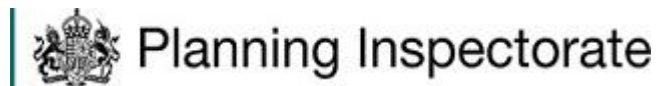
7. Whilst the appellant has not provided tenancy agreements or lists of the names and dates of the occupiers of the property, her sworn evidence is clear and precise. The Council has not provided any information to indicate that the appeal property was not in fact being used as a small HMO by not more than 4 people under Class C4 prior to the coming into effect of the Article 4 direction. The appellant has therefore proven the case on the balance of probability and the appeal succeeds.

Conclusion

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

Zoë Frank

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 2 February 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:

It has been shown on the balance of probability that the use as a small House in Multiple Occupation (Use Class C4) by not more than 4 people began before the Article 4 Direction came into effect and has continued substantially uninterrupted ever since.

Signed

Zoë Franks

Inspector

Date: **22 SEPTEMBER 2025**

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First Schedule

House in Multiple Occupation (Use Class C4)

Second Schedule

Land at 29 Ratcliffe Street, York, YO30 6EN

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 described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was 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 this decision dated: **22 SEPTEMBER 2025**

by Zoë Franks

Land at: **29 Ratcliffe Street, York, YO30 6EN**

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Scale: Not to Scale

