



Appeal Decision

Site visit made on 22 September 2025

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 October 2025

Appeal Ref: APP/M1900/X/25/3366685

37 Aviation Avenue, Hatfield, Hertfordshire AL10 9UB

- 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 Kaleesta Shirani Umaipalan against the decision of Welwyn Hatfield Council.
 - The application ref 6/2024/2423/LAWE, dated 22 December 2024, was refused by notice dated 6 March 2025.
 - 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 was originally described as we have HMO license for more than 12 years, but we need Lawful Development Certificate as the lender is asking for it.
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Preliminary Matters

1. In the appeal form the appellant described the development as "Certificate of Lawfulness for use as an existing HMO (C4)". The Council registered the application in a similar way, and I agree that describes the development more precisely. I have therefore considered the appeal on that basis and used that description in my formal decision.
2. A Direction under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 was made and confirmed by the Local Planning Authority in 2011. It came into effect on 12 January 2012 and removed the provisions of Part 3 Class 1(b) of Schedule 2 of the Order. Its effect was that in Hatfield from that date planning permission was required for development consisting of the material change of use from Class C3 (dwellinghouses) to Class C4 (Small Houses in Multiple Occupation) ("HMO").

Main Issue

3. The main issue is whether the Council's decision to refuse the application is well founded.

Reasons

4. The onus is on the appellant to demonstrate, on the balance of probabilities, that the use was lawful on the date the application was made.
5. Section 191(2) of the Act states that uses and operations are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason) and they do not

constitute a contravention of any of the requirements of an enforcement notice then in force.

6. Neither party has advised or claimed that any enforcement notice was in force, at the time the application was made or at any time since the use began.
7. In the application form, the appellant stated that the use began on 16th December 2011, but there is no evidence before me of any such use before 6 November 2012. It has therefore not been demonstrated that the use occurred before the Article 4 Direction took effect. With the evidence before me, including my site visit, the use of the property as a Class C4 six-bedroom HMO was materially different to use as a Class C3 dwellinghouse. The change of use therefore involved development and required planning permission.
8. The thrust of the appellant's case is that the time for the Council to take enforcement action has expired. Section 171B of the Act specifies that no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
9. Although the appellant stated that the use began on 16 December 2011, the appellant's evidence begins on 6 November 2012. I have therefore considered whether it has been demonstrated that a continuous 10 year period of the use has occurred at any time prior to the date of the application.
10. Under the Housing Act 2004, the premises were licensed as a House in Multiple Occupation from 6 November 2012 to the date the application was made and beyond. This demonstrates an intention to let the property as an HMO but does not demonstrate actual use.
11. The appellant, as landlord, entered into contracts with property management companies to let the property from 25th September 2014, from 12th September 2015, between 1st September 2019 – 31st August 2020 and between 1st October 2020 – 31st August 2022. But authority to let the premises as an HMO is not necessarily evidence of dates of actual use. In addition, the earlier contracts do not specify their end dates, with each simply to run "until ended by notice", and the gap between 31st August 2020 and 1st October 2020 suggests there was no authority for lettings agents to let the property in September 2020.
12. Evidence of parts of tenancy agreements, with tenants' names, are provided from 1st September commencing in the years 2017, 2018, 2019, 2020, 2022 and 2023. Only the 2020 agreement specifies that it runs for a full year (rather than, for instance, the academic year, or a shorter or longer period), and it is not clear whether there were periods when it was not in use. There are also two conflicting agreements commencing on the same date in 2024, but even if one of the 2024 agreements was in fact for 2021, as the date was handwritten, at best the tenancy agreements in evidence could only account for a period of 8 years.
13. Overall, on the balance of probabilities, the appellant has therefore not evidenced that the change of use did not involve development or require planning permission. Neither have they demonstrated that the Land has been used as a House in Multiple Occupation (Use Class C4) for a continuous period of 10 years at any time before the date the application was made, such that the time for enforcement action had expired. Nor demonstrated that the use was lawful for any other reason.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for use as an existing HMO (C4) is well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Decision

15. The appeal is dismissed.

Peter White

INSPECTOR