



Appeal Decision

Site visit made on 9 September 2025

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 3 OCTOBER 2025

Appeal Ref: APP/N4720/X/25/3366517

246 Cardigan Road, LEEDS, LS6 1QL

- 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 Beyond Asset Management Ltd against the decision of Leeds City Council.
 - The application ref 25/02446/CLP, dated 17 April 2025, was refused by notice dated 14 May 2025.
 - The application was made under section 192(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 Sui Generis HMO, use of property as a 7 bedroom house in multiple occupation, and install a window at lower ground floor level.
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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 proposed use and proposed operation which is found to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse to issue the LDC for the proposed use of the property as a 7 bedroom house in multiple occupation, as well as the installation of a window at lower ground floor level was well-founded.

3. At the date of the LDC application, the property was being used as a 6 bedroom house in multiple occupation (Class C4). It is located on a busy street in a mainly residential areas which also contains various commercial and retail businesses including a garage and food establishments and takeaways. There is no parking permitted outside the appeal property during the day Monday to Friday with parking restrictions in the vicinity along the length of Cardigan Road. There is a bus stop immediately next to the front garden.

4. The Council does not dispute that the proposed operational development would have been lawful as it benefitted from permitted development rights pursuant to Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended. The proposed window falls within the permitted development as the enlargement, improvement or other alteration of a dwellinghouse, and would therefore have been lawful on the LDC application date (if indeed it would materially affect the external appearance of the building and therefore fall within the definition of development at all.)

5. The main issue is whether the use of the appeal property as a seven bedroom house would be a material change when compared to the existing lawful use as a six bedroom property in multiple occupation (Use Class C4). The two uses do not fall

within the same use classification as the proposed 7 bedroom use would be *sui generis*, but this in itself is not sufficient to say that any such change would be material. For a material change of use to have occurred, there must have been some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. In this case, any off-site effects caused by the proposal will be highly relevant.

6. As the road is already very busy with traffic and with parking restrictions in place, the use of the property by an additional occupier will not materially affect the parking or use of the street by vehicles. It is evident from the estate agents boards present during the site visit that many of the other properties in the area are in multiple occupation, and that the large-terraced houses on Cardigan Road are being marketed and probably generally used to their full capacity. The many businesses in the vicinity will also contribute to the overall footfall, vehicle movements and bustle which will no doubt continue into the evening when the takeaways will be open and most used.

7. The extent to which a particular use fulfils a legitimate or recognised planning purpose may also be relevant in deciding whether there has been a material change of use, for example the need for a land use such as a particular type of housing in a particular area. However, there is nothing before me to indicate that the change of use in this case (and loss of a Class C4 property) would have a significant planning consequence.

8. Given the existing nature of the immediate vicinity with the mixed uses and busy vehicular road, the addition of one additional bedroom in the property will not cause an amenity or environmental impact. It will not be a material change of use as a matter of fact and degree.

Conclusion

9. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the use of the property as a 7 bedroom house in multiple occupation, and installation of a window at lower ground floor level 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 192
(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 17 April 2025 the use and operations 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, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed lower ground floor window is permitted development pursuant to Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended.

The use of the property as a 7 bedroomed house in multiple occupation would not constitute a material change of use from use as a 6 bedroomed house in multiple occupation and would not therefore constitute development requiring planning permission.

Signed

Zoë Franks

Inspector

Date: 3 OCTOBER 2025

Reference: APP/N4720/X/25/3366517

First Schedule

Sui Generis HMO, use of property as a 7 bedroom house in multiple occupation, and install a window at lower ground floor level.

Second Schedule

Land at 246 Cardigan Road, LEEDS, LS6 1QL

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use and operations described in the First Schedule taking place on the land specified in the Second Schedule would have been 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 and 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in this decision dated: 3 OCTOBER 2025

by Zoë Franks, Solicitor

Land at: 246 Cardigan Road, LEEDS, LS6 1QL

Reference: APP/N4720/X/25/3366517

Scale: Not to Scale

