Planning Inspectorate

Appeal Decision

Site visit made on 8 October 2025

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 October 2025

Appeal Ref: APP/Y5420/X/25/3367148
108 The Avenue, Tottenham, London N17 6TG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (1990 Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Prestbury Property Investments Ltd against the decision of the Council of the London Borough of Haringey.
- The application ref HGY/2025/0658, dated 13 March 2025, was refused by notice dated 15 May 2025.
- The application was made under section 191(1)(a) of the 1990 Act.
- The use for which a certificate of lawful use or development is sought is a house in multiple occupation (HMO) for up to six residents.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has advised that the reason for refusal of the LDC which was listed on the decision notice was incorrect due to an administrative error. They say it should have read:

   "From the documentation and evidence provided, the Local Planning Authority is not satisfied that, on the balance of probabilities, the use at 108 The Avenue, Tottenham has been used as C4 HMO for up to six residents for a continuous period of four years before the date of this application. Therefore, the sought use is considered to be unlawful".

3. The appellant highlighted issues with the Council's reason for refusal in their statement and also addressed the Council's revised reason for refusal in its evidence. I have therefore determined the appeal with regard to the amended reason for refusal set out above.

4. Nonetheless, the appellant's application for an LDC was predicated on the property's use as an HMO becoming immune from enforcement after four years. This appears to be on the basis of s171B(2) of the 1990 Act, which previously said a change of use of a building to a single dwelling would become immune from enforcement after a period of four years from the date of breach. However, an HMO is not classed as a single dwelling house, which means this time limit for immunity is not applicable.

5. Instead, the time limit for immunity for a material change of use to an HMO is governed by s171B(3) of the 1990 Act. This says no enforcement action may be taken against an unauthorised material change of use after ten years beginning

with the date of the breach. The appellant was given an opportunity to make submissions on this matter, but none were received.

6. To succeed on appeal, the appellant would therefore need to demonstrate, on the balance of probability, that use of the property as an HMO for up to six people had been ongoing continuously and uninterrupted for a period of ten years prior to the date of application, being 13 March 2015 (or before). As the appeal concerns an application for a LDC, the planning merits of the development are not relevant to its outcome.

Reasons

7. In this instance, the appellant says the property's use as an HMO began in August 2019. This is confirmed by the Statutory Declaration of Georgina Ktori. Whilst the Council does not dispute that the property has been used continuously as an HMO throughout this time, this period falls notably short of the ten-year period required for immunity from enforcement.

8. This means the appellant has not demonstrated, on the balance of probability, that use of the property as an HMO for up to six people had been ongoing continuously and uninterrupted for a period of at least ten years prior to the date of application. In turn, the use was not immune from enforcement, and was therefore not lawful.

Other Matters

9. The evidence suggests the property has, at times, been occupied by more than six people. An HMO with an occupancy of more than six is generally considered a *sui generis* use, whereas an HMO for up to six people falls within planning use class C4. In turn, the property may not have been occupied continuously and uninterrupted within the same use class, even during the period of use claimed. However, given my conclusion on the relevant immunity period, I have not considered this point further.

Conclusion

10. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for an HMO for up to six people is 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).

Mr James Blackwell

INSPECTOR