



Appeal Decision

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 23 OCTOBER 2025

Appeal Ref: APP/U5930/X/23/3334793

422A Hoe Street, Walthamstow, LONDON, E17 9AA

- 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 Akson Properties Limited against the decision of Waltham Forest London Borough Council.
 - The application ref 230035, dated 9 January 2023, was refused by notice dated 14 July 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 as a small house in multiple occupation (HMO)(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.

Preliminary Matters

2. As the material facts relevant to the determination occurred in the past, and the parties agreed that the layout of the property is as shown on the submitted plans, a site visit was not necessary.

Main Issue

3. The main issue is whether the Council's decision to refuse the LDC was well-founded. It is for the appellant to prove on the balance of probability that the change from Use Class C3 to C4 happened prior to the coming into force of the Article 4 Direction on 16 September 2014 ("the Article 4 Direction"). At this time, this change of use would have been permitted development pursuant to Part 3, Class I of the Town and Country Planning (General Permitted Development) Order 1995 and so would not have required express planning permission. It must also be shown that the C4 use as an HMO has not ceased or otherwise been lost subsequently. The applicant is responsible for providing sufficient information to support an application.

Reasons

4. If the use had begun after the Article 4 Direction came into effect then the material change of use would have been unlawful and would only have become immune from enforcement action if the appellant could show on balance that the use had continued substantially uninterrupted for a period of 10 years prior to the making of the LDC application. This would not be possible in this case as the application was made on 9 January 2023 which is less than 10 years after the date of the Article 4 Direction.

5. A small HMO under Class C4 of the Town and Country Planning (Use Classes) Order 1987 (“the UCO”) is a small shared dwellinghouse occupied by 3 – 6 unrelated individuals who form two or more households and share basic amenities such as cooking facilities, and bathroom or a toilet.¹
6. The appellant’s case is that the property had previously been used as a dwellinghouse for a single household occupied by a family but that this changed in 2005 when it began to be used as an HMO with 4 occupiers. As this was before the Article 4 Direction came into effect it did not require express planning permission.
7. They have provided an assured shorthold tenancy agreement dated 1 June 2013 with three named tenants, and state that these same tenants have lived in the property as single households ever since. In corroboration, they have provided various correspondence naming the same three occupiers dated June and October 2016 and November 2020.
8. Planning Practice Guidance advises that if a local planning authority has no evidence itself, nor from others, 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 applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
9. The Council accepts that the evidence is sufficient to show that the property has been rented out and used as an HMO at times. It seems likely on balance, and in the absence of any other information to the contrary, that the same tenants have occupied the property as an HMO since June 2013. The property layout drawing provided, and which has not been contested by the Council, shows three bedrooms with one kitchen, one bathroom and one shower room, which supports the appellant’s case that the dwelling has shared facilities. The three male tenants have different surnames and do not therefore obviously appear to be related, and the appellant has clearly stated that they are indeed unrelated and do not live together as a single household in the property which they have occupied since 2013.
10. The change of use to Class C4 took place before the coming into effect of the Article 4 Direction. The appellant does not therefore have to show that the use has been continuous for a period of 10 years from that, or indeed until the date of the LDC application, but rather that the lawful C4 use had not been lost by a subsequent event (e.g. a further change of use, implementation of an inconsistent planning permission, creation of a new planning unit or abandonment of the C4 use). As there is no evidence before me that such an event occurred, the C4 use remains lawful and the LDC should be granted.

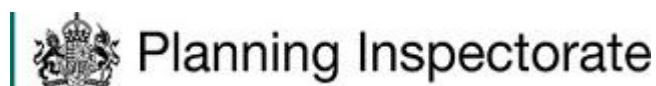
¹ As defined in Part C of Schedule 1 of the UCO and Section 254 of the Housing Act 2004.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a small house in multiple occupation (HMO) (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's

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 9 January 2023 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 HMO use began on 1 June 2013 before the Article 4 Direction came into force and was therefore permitted development pursuant to Part 3, Class I of the Town and Country Planning (General Permitted Development) Order 1995, and there is no evidence to show that the lawful use has been lost subsequently.

Signed

Zoë Franks

Inspector

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First Schedule

A small house in multiple occupation (HMO)(Use Class C4)

Second Schedule

Land at 422A Hoe Street, LONDON, E17 9AA

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 the Lawful Development Certificate dated: **23 OCTOBER 2025**

by **Zoë Franks, Solicitor**

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Scale: Not to Scale

