



Appeal Decision

Site visit made on 4 November 2025

by Grahame J Kean BA (Hons) Solicitor (HRA), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/L5240/X/24/3338599

14 Blackhorse Lane, Addiscombe, CR0 6RS

- 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 Mr Carl Buddhasingh against the decision of the Council of the London Borough of Croydon.
 - The application ref 23/02736/LE, dated 13 July 2023, was refused by notice dated 12 September 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 Use as HMO - (Use Class C4) for 6 persons.
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Decision

1. The appeal is dismissed.

Reasons

2. By s191(4) and s192(2) of the 1990 Act, the relevant date for ascertaining whether the existing development is lawful is the date of the LDC application. In an LDC appeal, the onus is on the appellant to make out their case to the standard of the balance of probabilities. Issues of planning merit are not relevant.
3. By s191(2) uses and operations are lawful at any time if (a) 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 (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
4. With respect to sub-paragraph (a) of s191(2) the time for enforcement action would have expired if the use of the appeal premises as a HMO had subsisted continuously for a period of ten years or more prior to the date of the LDC application. Nor could action be taken if permission already exists for the use.
5. Normally, a change of use from a C3 dwellinghouse to a C4 HMO would not require planning permission expressly granted on an application, because permission is already granted for this change of use by Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
6. Class L(b), Part 3 of Schedule 2 to the GPDO permits this change in use of a building from a use in Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a Class C4 use (HMOs). However, this permitted development right does not apply if what is known as an "Article 4 Direction" has come into effect in relation to an area where the change of use is sought to be established.

7. The date given in the application as the date when the use is said to have begun is 31 August 2017. The Council made an Article 4 direction effective on or about January 2020. It removed permitted development rights for changes of use from a dwellinghouse (C3) use to use as an HMO (C4). Article 4 directions are not however retrospective, so it would be open to the appellant to prove on the balance of probability that, in reliance on the permitted development right, the dwelling changed to a C4 HMO use before 28 January 2020 and has remained so.
8. The Council says that it has no record that the appeal site was in use as an HMO prior to Article 4 Direction, or that they had an HMO licence at that time, although the application stated that an HMO licence was issued before January 2020. The Council says that the licence was a “selective” licence, unrelated to HMOs, where landlords letting properties in areas subject to selective licensing must obtain a licence for their properties. Although the appellant disputes this, no pre-January 2020 licence has been submitted, whatever its nature might be.
9. The appellant also appears to be under the impression that evidence of renting the premises is all that is required. The application form claims “...*as the property was already being rented, the change of class had already been established.*” The property may well have been rented and continue to be rented, but that fact does not establish the lawfulness of a use within any given use class. Nor does an HMO licence, even if granted, offer protection against planning enforcement action.
10. I have read the correspondence between the appellant and the Council. Arguably the appellant was misled as to what was required in terms of submitting an LDC application. It may have assisted him to have referred to the government guidance available¹. That said, the guidance does point out that the applicant is responsible for providing sufficient information to support an application.
11. What is required is evidence of use as a HMO which broadly speaking, is a property let to three or more people who form more than one household and share basic amenities like a kitchen, bathroom, or toilet. The only information submitted were bank statements. These might possibly have supported the fact that the property was rented out, but they are insufficient to persuade me as a matter of fact and degree that the HMO use was being carried on prior to the date when the Article 4 Direction came into effect. The information to support a case should be sufficiently precise and unambiguous to justify the grant of an LDC. Unfortunately, the appellant provides no substantive evidence that demonstrates on the balance of probability that the HMO use was lawful at the time of the application.

Conclusion

12. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development for a HMO - (Use Class C4) for 6 persons 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).

Grahame J Kean

INSPECTOR

¹ <https://www.gov.uk/guidance/lawful-development-certificates>