



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2025

Appeal Ref: APP/W5780/X/24/3352333

2 Charter Avenue, Newbury Park, Ilford IG2 7AA

- 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 Prem Pabila against the decision of the Council of the London Borough of Redbridge.
 - The application ref 0632/24, dated 21 March 2024, was refused by notice dated 15 May 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which an LDC is sought is use of dwelling as a 5 bedroom HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 2 Charter Avenue was a Class C3 dwellinghouse but is now a Class C4 5 bedroom House in Multiple Occupation (HMO). Change of use from Class C3 to Class C4 is development permitted under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). This permitted development right was withheld by the Council on 6 December 2019 by a Direction made under Article 4(1) of the GPDO. The Appellant is claiming that the change of use occurred before the Article 4 Direction came into force and has subsisted up to now.
4. To be immune from enforcement action and therefore lawful, the change of use must have occurred before 6 December 2019 and then must have subsisted continuously for a period of four years. The onus of proof is on the Appellant who must provide sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the change of use did occur before 6 December 2019 and then subsisted continuously for a period of four years.
5. An appeal is determined on the basis of 'all the evidence now available' and an Appellant is entitled to bring forward evidence, in addition to that submitted at application stage, in support of his appeal. The Appellant has brought forward evidence not submitted at application stage which demonstrates that, as stated by the Council in their appeal statement, "It is reasonably likely that an HMO was operating prior to the Article 4 Direction became active". There is no reason to disagree with the conclusion reached by the Council.

6. However, all of the appeal evidence, tenancy agreements, bank statements and rent receipts, are for 2019 except for a couple of documents that are for 2020. There is nothing in evidence to indicate that the use of the property as an HMO was continuous for any four year period before the date of the application. The Appellant has not demonstrated that the C4 HMO use of the property has subsisted for a period of four years and is therefore immune from enforcement action.

7. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use of dwelling as a 5 bedroom HMO at 2 Charter Avenue, Newbury Park, Ilford was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector