



Appeal Decision

by Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2025

Appeal Ref: APP/Z4310/X/25/3362898

7 Victoria Road, Tuebrook, Liverpool, L13 8AL

- 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 Home Abode Liverpool Limited against the decision of Liverpool City Council.
 - The application ref 24LE/2867, dated 1 November 2024, was refused by notice dated 6 February 2025.
 - 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 a C4 house in multiple occupation (HMO).
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's refusal to grant a LDC was well founded.

Reasons

3. Advice relating to LDCs is provided by the Government's Planning Practice Guidance. This establishes that the applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any 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. A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Planning merits are not relevant.
4. Section 191(2) of the Act states that:

For the purposes of this Act 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.
5. I have not been referred to any enforcement notice, so my decision hinges solely on s191(2)(a).

6. An Article 4 Direction removing permitted development rights for a change of use from a C3 dwellinghouse to a C4 small house in multiple occupation (HMO), came into effect on 17th June 2021 (the relevant date) and therefore, for the HMO to be lawful, it must have come into use before that date and there must have been no subsequent change of use. Alternatively, there must have been a relevant grant of planning permission.
7. It is the Appellant's case that the change of use occurred before the A4 Direction came into effect. My attention has been drawn to appeal decision APP/Z4310/X/22/3300484 and like in that appeal, I will look at the evidence in the round.
8. The Appellant's evidence is contained within her Statutory Declaration.
9. The Appellant says that sales particulars from around 2020 described the property as being suitable for HMO purposes or flats. Nevertheless, regardless of any development potential, the property was in fact, advertised as a four bedrooomed semi-detached house. There is no dispute between the parties that the dwelling was previously in C3 use.
10. The property was sold to 1st for Rental Homes Ltd on 23 March 2021. The property was then sold on to the Appellant, Abode Liverpool Limited, on 12 November 2021. The appellant says that a valuation report dated 18 October 2021 stated that it had recently been refurbished and modernised to form a 6-bedroom, 6-person house in multiple occupation.
11. However, the valuation report was after the A4 Direction came into effect. The Appellant has submitted some completion certificates for electrical works, dated 9 June 2021, but this is scant evidence that the whole refurbishment was finished by the relevant date. In any event, the electrical works, including a fire detection system, are not exclusive to HMOs.
12. The Building Control completion inspection was undertaken on 9 November 2021 which is nearly 5 months after the relevant date. The appellant's theory is that the works were completed much earlier than 9 November and the inspection was later due to a Covid backlog. Nevertheless, I have no real evidence that the works were completed by the relevant date.
13. Furthermore, I have no explanation how any physical alterations would be so significant that they would change the use from A3 to A4. The Appellant's own evidence is that "the property could (in practical terms) function as a 'small HMO' without the need for any refurbishment works." The appellant also says that "While the refurbishment works carried out certainly improved the internal condition of the Property those works did not signify the change of use of the property." The significance of the conversion works in relation to the change of use is unclear. Nevertheless, I note the appellant's position that the change of use had occurred before the conversion works were complete.
14. In terms of occupation, evidence provided is in an email dated 2 July 2021, from 1st Homes Ltd to the Council's Public Protection Team which states "*Yes, we have tenants moved in. They all moved in between 09/06/21 and 14/06/21 and are on a 6 month AST.*" The only evidence to back up this statement is a photograph of an Assured Shorthold Tenancy (AST).

15. However, this AST reveals multiple discrepancies. It describes the property as 6 Victoria Road rather than number 7. It says the tenancy started on 1 June 2021 which is before the dates mentioned in the email. In addition, the landlord is stated to be Home Abode Liverpool (i.e., the Appellant) but I am told that the Appellant did not buy the property until later, on 12 November 2021. The submitted Title Register confirms this purchase date.
16. The explanation by the Appellant, for two of these discrepancies, is that (1) the address is an error and that (2) the Appellant was thinking of buying the property at that date. However, there is no explanation of how the Appellant could legally enter into a landlord and tenant contract on the basis of simply contemplating the purchase of the property. Another curiosity is that the Appellant's statutory declaration says that Home Abode Liverpool Ltd was incorporated on 1 July 2021 but the tenancy predates this by a month. In any event, the AST relates only to one person, whereas, a HMO accommodates multiple people, so even if it were reliable, it would be of little assistance anyway.
17. The appellant has submitted a letter from the Council dated 6 July 2021 which said that the Council was considering issuing a HMO licence to the previous owner, 1st for Homes Ltd, for a term of 2 years for the property. The Council says that the licence was applied for on 18 June 2021 which is after the relevant date. The licence was granted on 27 July 2021. Therefore, the licence does not indicate that the dwelling was occupied as a HMO before the relevant date.
18. I note the Appellant's comments that the Electoral Role shows a family last occupying the premises in 2011 and that there were no further entries until 2023. The Appellant thinks this is evidence of it being a HMO after 2011 due to potential HMO occupants being transient and not registering to vote. However, this is supposition. A lack of entries on an electoral roll does not denote a specific planning history.
19. The onus of proof is firmly on the appellant to provide evidence which is sufficiently precise and unambiguous to justify the grant of a certificate. Overall, I find that the appellant's evidence, on the balance of probabilities, does not meet this requirement. As with all LDC applications, it is open for fresh applications to be made if, for example, other evidence comes to light.

Conclusion

20. For the reasons given above I conclude that the Council's refusal was 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) and dismiss the appeal.

Siobhan Watson

INSPECTOR