



Appeal Decision

by Jean Russell MA FRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2026

Appeal Ref: APP/U4230/X/25/3371973

105 Seedley Park Road, Salford, M6 5WU

- The appeal is made by Mrs Jieping Huang o/b Portia Property Holdings Ltd under section 195 of the Town and Country Planning Act 1990 (as amended) against the decision of Salford City Council to refuse to grant a certificate of lawful use or development (LDC).
 - The LDC application (ref PA/2025/0842) was dated 20 June 2025 and refused by notice dated 8 August 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 and the existing use for which an LDC is sought was described as follows: "The property is a two-storey mid-terrace house currently in use as a C4 House in Multiple Occupation (HMO), occupied by four unrelated tenants who share communal kitchen and bathroom facilities. This use has been ongoing continuously since before the Article 4 Direction came into effect in Salford on 1 July 2018. The property was acquired by the current owner (my company) with tenants in situ, and no change of use or structural alterations have occurred since. The use relates to the entire residential unit as shown on the accompanying floor plan"
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. For ease of reading in this decision letter, I shall use the abbreviated description of development given on the appeal form: use 'as a Class C4 House in Multiple Occupation (HMO)' or, even more simply, 'use as a C4 HMO'.
3. The term 'Class C4' refers to use class C4 set out in Schedule 1 to the Town and Country Planning (Use Classes) Order 1987 (UCO): 'use of a dwellinghouse by not more than six residents as a house in multiple occupation'. Section 254 (s254) of the Housing Act 2004 (HA04) defines 'house in multiple occupation'.
4. I have no details of the current occupiers of the appeal building, 105 Seedley Park Road, but I can and shall assume for the purposes of this decision letter that the existing use of the property is as a four-person C4 HMO. The building is laid out with reception rooms and a kitchen on the ground floor plus four bedrooms, which all have en-suite shower rooms, located on two upper floors.
5. As set out below, the question for this appeal is whether the existing C4 HMO use is lawful for planning purposes, and the answer to that will lie in when such use began. It was therefore unnecessary for me to visit the site, and I have decided this appeal on the papers. The Council's report describes an objection to the grant of an LDC from a member of the public. Their comments concerned the impacts of the C4 use but such matters are not relevant to this determination of lawfulness.
6. The appellant submitted additional supporting information as part of this appeal. The Council suggests that, since that evidence was not made available to them

before they made their decision, I should not rely on it either. However, I must determine the lawfulness of the use on the best evidence available. I shall take account of the additional information because doing so will not prejudice the Council; they had an opportunity to comment via their statement of case.

7. The evidence includes a 'signed declaration' from the appellant and a 'witness statement' from a former tenant. Neither document was witnessed, signed or stamped by a solicitor, or can therefore be treated as containing sworn evidence. Nonetheless, I accept the contents of the declaration and witness statement. One qualification must be that the appellant is the director of a company who bought the appeal building 'in 2024'. The appellant does not seem and could not be expected to have first-hand knowledge of events before then anyway.

Lawfulness

8. Under s191(2) of the Town and Country Planning Act 1990 (TCPA90) uses are lawful at any time if no enforcement action may be taken in respect of them, perhaps because they did not require planning permission¹. The onus is on the appellant to make their case on the balance of probabilities.
9. It is implicit in the papers that the pre-existing lawful use of the appeal building was use as a dwellinghouse which fell under use class C3, probably by a single person or people to be regarded as forming a single household². Planning permission is required for a material change of use, including one between uses falling within C3 and C4. The appellant's case is that the appeal change of use took place with the benefit of planning permission granted through Article 3(1) and Part 3, Class L of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
10. While I have not been provided with a copy, it is undisputed that the Council made an 'Article 4 Direction' (A4D) which served to remove the 'permitted development' PD rights set out under the GPDO for a change between C3 and C4 uses in respect of an area which includes the appeal site. The Council has confirmed that the A4D took effect on **25 November 2018**.
11. It follows that, if the change to the existing C4 HMO use had taken place by 25 November 2018, it would be lawful because it would have the benefit of planning permission. The existing C4 HMO use would not be lawful, however, if the change of use occurred after that date because of the effect of the A4D. The Council has not granted express planning permission for the use of the building as a C4 HMO.

Main Issue

12. The main issue is whether the change of use of the appeal building to its existing use as a Class C4 HMO took place before 25 November 2018, such that it was permitted under Article 3(1) and Part 3, Class L of Schedule 2 to the GPDO.

Reasons

13. The appellant claims that the C4 use began when "the original two couples moved in to Seedley Park Road" on 20 September 2014. That phrase and date were given

¹ It is also necessary that the uses do not constitute a contravention of any of the requirements of any enforcement notice in force, but that is not relevant here.

² Although C3 also encompasses use as a dwellinghouse by not more than six residents living together as a single household where care is or is not provided for residents (other than a use within Class C4).

in a 2024 email from a person who is said to be a solicitor and had the same email address as the landlord's 'contact' on an assured shorthold tenancy (AST) agreement which named 'the tenant' as four persons: AM, CT, JJ and RW.

14. There is evidence which supports that claim:

- A Council Tax bill was sent to CT, AM and JJ at the appeal building on 20 December 2014. The bill in fact relates to another property but shows that charges thereon ended on 20 September 2014.
- The Council itself has stated that Council Tax records indicate commencement of an HMO use of the appeal building on 21 September 2014.
- The AST agreement stated in paragraph 1.7.3 that the first rent payment would be on 1 October 2014 or prior to the date of taking possession.
- JJ affirmed in their witness statement that they moved into the property on 20 September 2014.

15. However, the AST agreement gave the term of the tenancy as 1 February 2015 to 31 January 2016, a period inconsistent with the first rent payment being due on 1 October 2014, and with the agreement itself being dated 20 June 2018. If the agreement was made late "to formalise things", as the appellant suggests, the question has to be why the details were not properly checked and updated.

16. Other irregularities are that the AST agreement included statements that it was made for the 'letting of unfurnished dwelling' and 'the property is not let as a house in multiple occupation within the meaning of the Housing Act 2004'. My copy is also unsigned. Those discrepancies are not fatal to this appeal in themselves, but they reduce the weight I can attach to the AST agreement. And that is important when, as stated by the Council and accepted by the appellant, Council Tax records only show multiple occupancy of the building between 21 September 2014 and 23 August 2015; 29 August 2020 and 30 June 2023; and from 22 July 2024 onwards.

17. I particularly note the long gap between the C4 use potentially ceasing in August 2015 and not resuming until August 2020. JJ moved out of the property before the latter date, on 22 February 2020. They said that "during [their] time at the property, it was occupied by more than three people who were not related to each other" including CT, AM and RW as well as their self. However, JJ did not say whether any or all of other three tenants were in residence with them for the entirety of the September 2014 to February 2020 period.

18. That omission is significant because a Council Tax bill issued in respect of the site on 12 March 2019 for the forthcoming financial year was addressed to JJ alone and subject to a 25% reduction³. JJ has not explained that discount and the appellant has not described any circumstances where premises used as an HMO might not be subject to full Council Tax liability.

19. The appellant has also submitted a Selective Licence issued in respect of the appeal building, but it was expressly issued under Part 3 of the HA04. Selective licences may be issued in respect of any privately rented accommodation (including those occupied under a single tenancy) except for residences where an HMO licence is required under Part 2. The Selective Licence before me does not show

³ The bill confusingly says "disregard 25% reduction" but the sum owed shows the discount was applied.

C4 HMO use of the building. It was, in any event, only issued on and valid from 4 November 2020, after the A4D had come into force.

20. I attach significant weight to the personal statements from JJ and the appellant, but their evidence is not only contradicted by Council Tax records. It is also insufficiently precise and unambiguous to make their version of events no less than probable. By contrast, the evidence submitted by the appellant includes multiple inconsistencies and is also partial in respect of the chronology.
21. The evidence does point to use of the appeal building as a C4 HMO, albeit with two households rather than four⁴, probably beginning in or around September 2014. However, it also suggests that the use was later changed back to use as a single or C3 dwellinghouse. That likelihood is raised by the Council Tax bills and not excluded by other evidence, including JJ's statement and the Selective Licence.
22. Article 3(1) and Part 3, Class L of Schedule 2 to the GPDO permit a change from a use within C4 to one within C3, as well as the other way round. Even if there was a change of use of the building to C4 use in 2014, carried out as PD, the appellant has not shown that there was not subsequently another change of use back. Thus, the appellant has not shown that the final change of use, meaning the change from C3 to the **existing** C4 HMO use, had probably occurred by 25 November 2018.
23. The appellant makes no claim that the C4 HMO use is lawful through immunity from enforcement action under the 'ten year rule' set out under s17B(3) of the TCPA90. Such a claim could have been made, given that the LDC application was made more than ten years after the use is said to have begun. However, for any use to be so immune, it must be continued without significant interruption for the relevant period, such that the Council could have taken enforcement action at any time. Continuity of the use is exactly what the evidence renders less than probable.

Conclusion

24. For the reasons given, I conclude that the appellant has not demonstrated that the change of use of 105 Seedley Park Road to its existing use as a Class C4 House in Multiple Occupation (HMO) took place before 25 November 2018 when the relevant Article 4 Direction came into effect. It has not been shown that the existing use has the benefit of planning permission granted by the GPDO or is otherwise lawful on the balance of probabilities, meaning that enforcement action could be taken for the purposes of s191(2) of the Town and Country Planning Act 1990.
25. The Council's decision to refuse to grant a certificate of lawful use in respect of the use of 105 Seedley Park Road as a Class C4 House in Multiple Occupation (HMO) was well-founded. I will exercise the powers transferred to me in s195(3) of the Town and Country Planning Act 1990 to dismiss the appeal.

Jean Russell

INSPECTOR

⁴ Under s258 of the HA04, unrelated persons may form a 'single household' where they are a couple living together as if they were a married couple or civil partners.