



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 23 January 2026

Appeal Ref: APP/C5690/X/24/3356562

41 Ivy Road, London SE4 1YS

- 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 Girish Gowda against the decision of the Council of the London Borough of Lewisham.
 - The application ref DC/24/136554, dated 26 June 2024, was refused by notice dated 22 August 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 for a House in Multiple Occupation (HMO) for 3 occupants.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the existing use which is found to be lawful.

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. 41 Ivy Road is a two-storey maisonette that was a Class C3 dwellinghouse as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended). Under the provisions of Class L of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO) the change of use from Class C3 to Class C4, and vice versa, is permitted development and does not require a grant of planning permission. However, a Direction made under Article 4(1) of the GPDO which restricts that permitted development came into force on 19 January 2024. The Appellant maintains that the change of use to Class C4 occurred prior to 19 January 2024 and that the use is thus lawful.

4. The burden of proof is on the Appellant who, to be successful, must provide sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the use of the property as an HMO commenced before 19 January 2024. The Appellant applied for an HMO licence in January 2024; the date is disputed by the parties. But an HMO licence, or the date it was applied for or received by the Council, is not conclusive evidence of a change of use of the property. The Appellant has submitted two Statutory Declarations; by Mr Ganatra, the managing agent of the property, and by Mr Bird, a resident of the property. Mr Ganatra states that three unrelated individuals, Mr B Bird, Mr G Cutler and Mr L Campbell, took up residency of the property prior to 19 January 2024.

5. In his Statutory Declaration Mr Bird states that he has "...lived in 41 Ivy Road...since 16th January 2024. When I moved into this flat the property was vacant and newly refurbished. 2 other tenants, Gabriel Cutler and Lenord Campbell, moved in the very next day. We have been sharing the flat since the 17th January 2024 until now". The payment of rent on behalf of the three tenants is confirmed by bank statements of the management company. Each of the three tenants signed an Assured Shorthold Tenancy Agreement for occupation of a room in the property on either 16 or 17 January 2024.

6. Evidence indicates that the property was refurbished to be let as an HMO, that the property was let to three unrelated individuals, and that the three tenants took up residency of the property on 16/17 January 2024, before the Article 4(1) Direction came into force on 19 January 2024. The Appellant has provided sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the use of the property as an HMO commenced before 19 January 2024. The continuing use of 41 Ivy Road as an HMO is thus lawful.

7. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use for a House in Multiple Occupation (HMO) for 3 occupants at 41 Ivy Road, London was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

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 26 June 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black in black 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 permitted change of use from Class C3 to Class C4 commenced prior to a Direction made under Article 4(1) of the GPDO came into force.

Signed

John Braithwaite

Inspector

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First Schedule

Use for a House in Multiple Occupation (HMO) for 3 occupants

Second Schedule

Land at 41 Ivy Road, London SE4 1YS

IMPORTANT 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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 January 2026

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Land at 41 Ivy Road, London SE4 1YS

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Scale: Not to Scale

