



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 27 January 2026

Appeal Ref: APP/U5930/X/24/3355476

40 Chatham Road, Walthamstow, London E17 6EU

- 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 Emma Doyle against the decision of Waltham Forest London Borough Council.
 - The application ref 241335, dated 28 May 2024, was refused by notice dated 26 July 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 property as a small House in Multiple Occupation (HMO) (Use Class C4).
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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. The main issue is whether, on the basis of all evidence submitted, the Council's decision not to grant an LDC was well founded. The onus of proof is on the Appellant whose evidence must be sufficiently precise and unambiguous to demonstrate, on the balance of probability, that the Council's decision was not well-founded.
4. 40 Chatham Road is a mid-terraced two-storey property. Use of the property originally fell within Use Class C3 'Dwellinghouses' as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended). The Appellant claims that the dwelling has been in use as a Use Class C4 HMO. Change of use from Class C3 to Class C4 does not constitute development for which planning permission is required unless this permitted development right is withheld by a Direction made under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015. Such an Article 4(1) Direction came into force on 16 September 2014.
5. In a previous LDC appeal decision dated 31 January 2022, which considered the same existing use at the same property, the Inspector found that the Class C4 use commenced before 16 September 2014 and continued uninterrupted until February 2015. There is no reason to disagree with this finding.
6. To be lawful, and for an LDC to be granted, the use of the property as a Class C4 HMO must have subsisted uninterrupted from February 2015 up to the date of the application. The LDCs were refused in 2022 mainly because the Inspector found that

the property was in use as a Class C3 dwellinghouse during 2015 when the property was undergoing works of alteration. An application for an LDC for the works is dated 23 March 2015 and the Applicant's name is Mr Hanily. The Appellant, Ms Doyle, was the Appellant in the 2022 appeals and she has stated, in a Statutory Declaration dated 2 March 2022, that "I bought the house on 12 December 2007".

7. Not seen by the previous Inspector is a Statutory Declaration by Mr Hanily dated 2 July 2024. In his Declaration Mr Hanily states that "I moved into the house on 1st March 2015", "I vacated the house on 2nd September 2015", "I shared the house with 2 other people", "During my occupation of the house, I worked as project manager for construction works...", and "As part of my role for the owner Ms Emma Doyle, I instructed architect Mr David Barnard to get planning permission for a loft conversion extension to the house. I was responsible for liaising with the architect and managing this aspect of the project. Ms Doyle had no role in this".

8. The 2015 application for an LDC is signed by Mr Barnard acting as Agent. Mr Barnard has provided two Statutory Declarations, dated 23 February 2022 and 12 June 2024. In his 2022 Declaration Mr Barnard states that "I liaised with Mr Hanily and understood him to be the owner", and "...I was the architect that (sic) prepared and submitted plans for..." an LDC. In his 2024 Declaration he states that "I have been asked to...expand on...box 7 of the form accompanying..." an LDC application dated 23 March 2015, and "My role as an architect was to prepare the necessary drawings for submission to the Council. It is not something I focussed on as I was pre occupied by the physical works to the house".

9. Box 7 of the form is 'Information about the Existing Use' and Mr Barnard wrote 'House in single family occupation' and 'C3'. Mr Barnard, in both of his Statutory Declarations, claims to have been an architect at the time of the 2015 works. To be able to use the title 'architect' a properly qualified person must be registered with the Architects Registration Board (ARB). All registered architects are bound by standards of professional conduct and practice known as 'The Architects Code' and published by the ARB. The Code, now and previously, requires that 'architects must be honest and act with integrity'. There is no reason to doubt that Mr Barnard, acting as architect and agent, did not honestly and with integrity complete box 7.

10. The two other people referred to by Mr Hanily are Mr Casey and Mr Farren. Mr Farren occupied a room in the house from 1 March to 2 September 2015 and assisted in the construction works. Mr Casey was a resident of the house from 1 March 2015 to 6 January 2019, as confirmed in his Statutory Declaration dated 17 February 2022. The Appellant and owner maintains that the three people were occupying her house as an HMO. However, there is nothing now in evidence to contradict the conclusions of the previous Inspector that "There is no clear explanation before me regarding the reasons for the discrepancy between the 2015 application and the current claims regarding the use of the property at that time", and "...it seems likely...that the property was in use as a C3 dwellinghouse at the time the 2015 application was made. Consequently, it did not meet the definition of an HMO at that time".

11. The Appellant has focussed, in her appeal submissions, on addressing the situation that prevailed during 2015 and the previous Inspector's conclusions, which have been found now not to have been incorrect. It must also be noted, however, that there is no evidence, other than that of Mr Casey and of Mr Pintucci who rented a room in the house from 2021 to 2024, about occupation of the house after 2015. Other than the Statutory Declarations of Mr Casey and Mr Pintucci there are no tenancy

agreements, bank statements showing payment of rent and Council Tax, or utility bills in evidence. The history of occupation of the house is significantly incomplete.

12. The Appellant has not provided sufficient precise and unambiguous evidence to demonstrate, on the balance of probability, that a Class C4 use of the property continued uninterrupted up to the date of the application from commencement before the Article 4(1) Direction came into force on 16 September 2014.

13. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use of property as a small House in Multiple Occupation (HMO) (Use Class C4) at 40 Chatham Road, Walthamstow, London 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