



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 12 February 2026

Appeal Ref: APP/G5750/X/24/3358058

2 Newton Road, London E15 1LR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mrs Naz Ali against the decision of the Council of the London Borough of Newham.
- The application ref 24/02233/CLE, dated 28 October 2024, was refused by notice dated 2 December 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 *sui generis* (Houses in Multiple Occupation).

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.
4. For the Council's decision not to have been well founded the existing use must have been immune from enforcement action on the date of the application. To have gained immunity the use must have subsisted continuously, in accordance with section 171B(2)(a) of the Act, for the ten year period prior to that date. 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 claimed use of the property had gained immunity and that the Council's decision was not therefore well-founded.
5. The use of 2 Newton Road as a *sui generis* HMO must have commenced, to now be immune from enforcement action, ten years before the date of the application, which is 28 October 2014. The only documentary evidence submitted that pre-dates that date are pages 1, 3 and 7 of a 14 page Property Licence (Ref. 12/05803/HOSELE) issued by the Council on 31 October 2013 under section 88 of the Housing Act 2004. The licence indicates that "The property is licenced for a maximum of 7 people...". On the basis of this evidence the property could have been occupied as a *sui generis* HMO, which is classified as an HMO for 7 persons or more, before 28 October 2014. But there is no documentary evidence, such as tenancy agreements or bank statements, to demonstrate how many people occupied the property on that date.

6. A Property Licence (Ref. 17/05316/HOADLI) was issued by the Council on 4 January 2018, valid for the period 1 January 2018 to 31 December 2022, which indicated that “The property is licensed for a maximum of 5 people...”. Another Property Licence (Ref. 20/018437/HOADLI) for the same period was issued on 27 August 2020 which indicated that “The property is licensed for a maximum of 10 people...”. Another Property Licence issued by the Council during the ten year period licenced the property for a maximum of 7 people. The licenced number of people who could occupy the property varied during the ten year period but the licenses do not indicate how many people actually occupied the property during the ten year period.
7. Tenancy Agreements have been submitted in evidence but only for 2023 and 2024. Council Tax bills have been submitted in evidence but only for the period 2023 to 2025 and these do not indicate the use of the property, only that it has been a Band D property. One Octopus Energy bill has been submitted in evidence for the 12 day period 28 September to 9 October 2024. Many other documents have been submitted in evidence but they all relate to the property during the ten year period.
8. Two Statutory Declarations have been submitted in evidence, both of which declare that the property “...has been used as a House in Multiple Occupation for the past 10 years till today without any disruption of use”. The Declarations do not distinguish between a Class C4 HMO, for 3-6 people, and a *sui generis* HMO, for 7 or more people. Furthermore, it is improbable that a Plumbing Engineer and an Electrical Supervisor, the declarers, have sufficient knowledge of occupation of the property over the whole of the ten year period to have made their Statutory Declarations.
9. The evidence submitted by the Appellant is not sufficiently precise and unambiguous to demonstrate, on the balance of probability, that the claimed use of the property as a *sui generis* HMO subsisted throughout the ten year period prior to the date of the application, and had therefore gained immunity from enforcement action.
10. For the reasons given above, and on all the evidence now available, the Council’s refusal to grant an LDC for use as a *sui generis* HMO at 2 Newton Road, 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