



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 18 February 2026

Appeal Ref: APP/P4605/X/25/3359232

25 Institute Road, Kings Heath, Birmingham B14 7EG

- 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 Abbas Pardhan against the decision of Birmingham City Council.
 - The application ref 2024/03548/PA, dated 4 June 2024, was refused by notice dated 18 November 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 7 no. bedroom HMO.
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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. 25 Institute Road is a two storey plus partial attic building. The appeal property is the first floor and attic. The Appellant claims that the property has been a 7 no. bedroom HMO for in excess of ten years prior to the date of the application and that this use of the property is thus immune from enforcement action and is therefore lawful. The onus of proof is on the Appellant who must provide sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the use of the property as a 7 no. bedroom HMO subsisted continuously through the ten year period prior to the date of the application.
4. The Council has provided an appeal statement in which it is stated that "...enforcement case notes suggest a change of use to the first and second floors, converting them into eight self-contained flats. This raises doubts about the property's current status as an HMO, particularly as a site visit carried out on 10th November 2023 indicated that it was not in use as a 7-bed HMO". An appeal document is Drwg. No. IR02 'Existing First and Second Floor Plans'. The drawing is dated 13 April 2023, though the first of eight revisions was made on 22 March 2023, and shows the property to be sub-divided into eight self-contained flats, each with a shower room, a kitchenette with sink, and ample bed/sitting space.
5. Another appeal document is Drwg. No. IR03 'Proposed First and Second Floor Plans', which illustrates a 7 bed HMO layout for the property. The drawing, as it is scanned, does not show its date but it was first revised also on 22 March 2023. Given the date of Drwg. No. IR02 and the date of first revision of both drawings, they were

being drafted at the same time; one illustrating the property as 'Existing' and one illustrating the property as 'Proposed'. The only conclusion to be reached from this evidence is that in March 2023 the property existed as eight self-contained flats and the proposal was to alter the property to be a 7 bed HMO. This conclusion is corroborated by the findings of a Council Officer at a site visit carried out on 10 November 2023.

6. On the Appellant's own evidence the appeal property was eight self-contained flats in 2023, during the ten year period before the date of the application. This apparent interruption in the claimed continuity of a 7 bed HMO use during that ten year period is critical to the appeal. The Appellant has not provided sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the use of the property as a 7 no. bedroom HMO subsisted continuously through the ten year period prior to the date of the application.

7. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for 7 no. bedroom HMO at 25 Institute Road, Kings Heath, Birmingham 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