



Appeal Decision

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2026

Appeal Ref: APP/E5900/X/24/3352109

2 Winkworth Cottages, Cephas Street, London E1 4JF

- 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 Masuma Sultana against the decision of the Council of the London Borough of Tower Hamlets.
 - The application ref PA/24/00929, dated 3 June 2024, was refused by notice dated 19 July 2024.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is described as 'change of use of single dwelling (C3) to (Sui Generis) 7 bed HMO for up to 7 people'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have not carried out a site visit as my decision turns on the evidence provided. A site visit in this particular case would not affect my decision.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue an LDC was well-founded.

Reasons

4. The Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO) defines the relevant use classes. The use of a dwellinghouse by not more than six residents as a house in multiple occupation (HMO) falls within the C4 use class; the use as a dwellinghouse by a single person or by people to be regarded as forming a single household, or by not more than six residents living together as a single household, falls within the C3 use class. The use of the site as a seven-bedroom HMO for up to seven people would fall outside any use class specified by the UCO and would comprise a materially different use to those falling in the C3 or C4 use classes. As such, it would be a *sui generis* use, and planning permission would be required to change to that use from a C3 or a C4 use.
5. Section 191(2) of the Act states that uses are lawful at any time if no enforcement action may then be taken in respect of them and they do not constitute a contravention of any requirements of any enforcement notice then in force. Where a material change of use from a C3 dwelling to a seven-bedroom HMO for up to seven people has taken place, section 171B of the Act provides that no enforcement action may be taken after the end of the period of ten years beginning with the date of the material change of use. I am not aware of any enforcement notice in effect on the site.

6. Caselaw explains that the onus is on the appellant to make out their case to the standard of the balance of probabilities and their evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted. Therefore, for the appeal to succeed, the appellant needs to provide sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that a material change of use of the site to a seven-bedroom HMO for up to seven people took place on or before 3 June 2014, at least ten years prior to the date of the application for an LDC, and that its use as such remained continuous up until the date of the application, 3 June 2024.
7. Bank statements have been provided from Prime Land Property Limited (PLP), the managing agent of the site, showing monthly standing order payments to Mr Oshim Uddipan (a joint owner of the site) of £2,500 between 30 December 2013 and 30 June 2014 with the reference 'Rent2Winkworthcott'. This shows the managing agent was making regular payments to the owner over that period, but it does not show how many people were living at the site or under what arrangements. Moreover, there are no bank statements showing payments from tenants to the managing agent in 2014.
8. Emails between PLP and the Council's council tax team between 28 August and 1 September 2014 refer to the site being occupied by Mr Zhang Han Gordon between 24 August 2013 and 23 August 2014. If the site was in use as a seven-bedroom HMO for up to seven people over that period, it would be expected that other tenants' names would have also been provided to the Council for council tax purposes. There is no explanation as to why no other names of tenants have been provided for that period.
9. Other evidence points towards the site being in use as a six-person HMO and a separate studio flat in 2014. Rightmove advertisements refer to a studio available to rent at the site in May and June 2014, while an inventory dated 27 August 2014 refers to the site as a six-bedroom house. Plans titled 'existing plans' dated September 2023 show two kitchens at ground floor level. Those plans show the doorway connecting the rest of the house to the rear kitchen, together with 'Bedroom 2' and an en-suite, annotated 'access blocked'. That rear kitchen/bedroom/en-suite are shown as accessible from a rear door leading to the rear garden, which is also shown to be accessible from a rear passage. I also note a photograph which shows a fridge/freezer with a microwave on top blocking the access between the rear kitchen/bedroom/en-suite and the rest of the house.
10. Email correspondence to/from PLP and deposit protection information indicate that a studio flat at the site was rented to Amelia Jane Cunliffe from 16 June 2014 until some point in October/November 2014, and then to Esther Mulholland from 10 November 2014. An email from Ms Cunliffe to PLP on 4 September 2014 states: *'It seems like a party behind me for the last two night. Soo noisy, so many voices, swearing etc. Are there new tenants?'* This ties in with the other evidence referring to the site being rented to six tenants from the end of August 2014, with the first page of an Assured Shorthold Tenancy Agreement dated 27 August 2014 naming those six people and defining the premises as the site address 'excluding rear studio'.

11. The evidence therefore paints a picture of the site being lived in by Mr Gordon between 24 August 2013 to 23 August 2014, which overlaps with a separate studio at the rear of the site being lived in by Ms Cunliffe from 16 June 2014, before six other people take on a tenancy of the site from 27 August 2014. Ms Mulholland then occupied the rear studio flat from 10 November 2014. This is different to the claims being made, and is at odds with the HMO licence dated 3 October 2022, which refers to the site having two bedrooms, a kitchen/lounge, a utility room, and a bathroom/WC at ground floor level, along with five other bedrooms and other bathrooms/WCs at first/second floor levels.
12. Despite the numerous documents provided by the appellant, there is very little detailed explanation of what any of that evidence may show relevant to the claimed lawful use of the site. The document which is claimed to comprise a statutory declaration offers little assistance on account of its inconsistency and lack of clear and relevant details. Overall, there is a lack of clear explanation of what use(s) of the site may have been lawful on the date of the application.
13. In summary, the appellant has failed to provide sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that a material change of use of the site to a seven-bedroom HMO for up to seven people took place on or before 3 June 2014, or that any other use of the site may have been lawful on 3 June 2024.

Conclusion

14. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a change of use of single dwelling (C3) to (Sui Generis) 7 bed HMO for up to 7 people is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

L Douglas

INSPECTOR