



Appeal Decision

Site visit made on 23 February 2026

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 March 2026

Appeal Ref: APP/Z4310/X/25/3364780

14 Newstead Road, Liverpool L8 0QS

- 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 Force of Unity Ltd against the decision of Liverpool City Council.
 - The application ref 24LE/3285, dated 11 December 2024, was refused by notice dated 15 April 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is a dwellinghouse in multiple-occupation (by not more than six residents) within Use Class C4 of Schedule 1 to the Town and Country Planning Use Classes Order 1987 (as amended).
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Act if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous.
4. A Direction made under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 applies to the area in which the appeal property is located. The Direction came into effect on the 17 June 2021 and removes the permitted development rights conferred by Schedule 2, Part 3, Class L(b), ie the change of use of a building from a use falling within Class C3(dwellinghouses) to a use falling within Class C4(houses in multiple occupation).
5. Given the above, the question is whether the use of the property materially changed to use as a C4 Use Class house in multiple occupation (HMO) after the Class L(b) permitted development rights came into force, but prior to the date on

which the Article 4 Direction came into effect (17 June 2021) and therefore had the benefit of planning permission.

6. The appellant acquired the appeal property in March 2024. Reference is made to a previous application for an LDC¹, which was subsequently refused. Although evidence was seemingly submitted with the previous application, including Assured Shorthold Tenancy Agreements (ASTAs), a Gas and Electricity Safety Certificate; and, a statutory declaration from the previous owner, none of these documents are before me. Accordingly, I cannot attribute any weight to them. It is for each party to make their own case and provide whatever evidence they rely on to support it.
7. In the appeal before me, the appellant has provided ASTAs from between 2 July 2021 and 30 June 2024 and Council Tax bills from 7 July 2022 to 31 March 2024. However, as these post-date the relevant date of 17 June 2021, they offer very limited evidence that the property was occupied prior to that date.
8. The ASTA dated 8 December 2020 was signed prior to 17 June 2021 but the tenancy start date was not until 2 July 2021. It therefore provides no indication that the property was in use as an C4 HMO prior to the commencement of the tenancy. I have had regard to the Supreme Court judgment of *Welwyn Hatfield*². The students identified in the 2020 ASTA would not likely have occupied the property until the tenancy start date of 2 July 2021. There is no evidence before me of who, if anyone, occupied the property at the time the ASTA was signed. Whilst the signing of the ASTA on 8 December 2020 constituted a contractual agreement to occupy the property from 2 July 2021, that does not equate with it being in use as a C4 HMO prior to that date. I do not consider that the intention to use the property as a C4 HMO from between December 2020 to July 2021, without actual occupation during this period, is sufficient to demonstrate that it was in use as a C4 HMO at the relevant time.
9. The property had a 5 year HMO license for no more than 6 persons from 15 December 2020. However, this provides little indication that the property was actually occupied and used as a C4 HMO during this time, specifically prior to 17 June 2021.
10. I find therefore, the evidence before me is not sufficiently precise and unambiguous to demonstrate that, on the balance of probabilities, the use of the appeal property materially changed to a C4 Use Class HMO prior to 17 June 2021. As planning permission has not been granted for the use of the appeal property for a C4 Use Class HMO at the time the LDC application was made, the use is unlawful.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

INSPECTOR

¹ Council reference 23LE/2205

² *Welwyn Hatfield BC v SSLG & Beesley* [2011] UKSC 15