



Appeal Decisions

Site visit made on 14 January 2026

by **Diane Lewis** BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2026

Appeal Ref: APP/E5900/C/25/3371349 (Appeal A)

Land at 116 Carr Street, London, E14 7SU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Shafique Ahmed against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
- The notice was issued on 22 July 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the property, shown outlined in red on the attached plan, from a single dwelling to a mixed use as a House in Multiple Occupation (HMO) and for short stay accommodation.
- The requirements of the notice are to:
 - 1) Cease the use of the property shown in the approximate location outlined in red on the attached plan in Appendix A as a House in Multiple Occupation;
 - 2) Cease the use of the property shown in the approximate location outlined in red on the attached plan in Appendix A for short stay accommodation; and
 - 3) Make good any damage to the premises and remove all debris occurring from compliance with Steps 1 and 2 above.
- The period for compliance with the requirements is: Six (6) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variation in the terms set out below in the Formal Decision.

Appeal Ref: APP/E5900/X/25/3369731 (Appeal B)

116 Carr Street, London, E14 7SU

- 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 Shafique Ahmed against the decision of the Council of the London Borough of Tower Hamlets.
- The application ref PA/25/00232, dated 9 February 2025, was refused by notice dated 4 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 C4 - Houses in Multiple Occupation.

Summary Decision: The appeal is dismissed.

REASONS

1. There is a significant amount of overlap in the background information, considerations and evidence in relation to the two appeals, especially the legal grounds of appeal in Appeal A and the matters of fact and law in Appeal B. To avoid repetition, such matters, along with procedural aspects, will be addressed first, followed by consideration of the issues specific to Appeal A and then Appeal B.

The Appeals

Appeal A

2. The appeal form indicated the appeal was being made on grounds (a), (b), (c), (f) and (g). In response to a question from the Planning Inspectorate the appellant confirmed on 18 August 2025 a ground (d) appeal was also being pursued. On 29 September the appellant indicated the addition of ground (e) but this ground was later withdrawn by the appellant on 24 October.
3. The appellant's case on the legal grounds of appeal (b), (c) and (d) was confirmed in the final comments submitted on 12 January 2026. In summary, the appellant maintained the alleged material change of use did not occur. The planning character of the property had not changed from use as a dwelling house at the date the notice was issued. Differences in occupation patterns, internal arrangements or historic advertising did not either individually or cumulatively establish materiality in planning terms. The functional use of the property as a single planning unit remained that of a single dwellinghouse within Use Class C3. On ground (d) the character of residential use remained constant throughout the relevant period notwithstanding the changes in layout, occupancy mix or intensity. The alleged use had subsisted for a sufficient period such that enforcement action is time barred.

Appeal B

4. The application dated 9 February 2025 sought a certificate of lawful use or development (LDC) for an existing use of the property as a small House in Multiple Occupation (HMO) under Use Class C4. The Council refused to issue a LDC for that use.
5. The appeal form stated the existing use in respect of which a certificate is sought is a "Mixed-use: long/mid/short term lets incl. C3, C4 & sui generis with landlord in residence; use has continued for over 10 years."
6. In view of the differences in the description the appellant was asked following the Case Management Conference (CMC) to confirm whether they wish to continue with or withdraw the appeal. On 24 October the appellant confirmed in writing the intention to continue the LDC appeal in its original form, limited to the C4 use described in the application.
7. The appellant's proof of evidence dated 15 December 2025 did not specifically detail the description of the use sought through the LDC appeal. The use of the property is described as a shared household.
8. The most recent position is set out in the documents submitted as final comments made on 12 January 2026. In summary, "The Appellant's primary position, based on the totality of the evidence, is that the property has operated as a single dwelling house within Use Class C3, with continuity of use over the relevant period. That position underpins the application for a certificate of lawful existing use or development and is not displaced by the matters relied upon in the proof of case."¹

¹ Appellant's Response to Local Planning Authority's Proof of Case Inspector's Assist Note paragraph 5.

Procedure

9. The Planning Inspectorate initially decided that the appeals should be determined through the inquiry procedure and set an inquiry date of 13 and 14 January 2026.
10. The appropriate procedure was kept under review, including at the CMC and on receipt of the draft statement of common ground. The inquiry procedure was reaffirmed. Proofs of evidence were received from the appellant and the Council within the set timescale. The procedure was reviewed again following a request by the appellant on 15 December 2025 for the appeals to proceed by written representations². I decided that a change in procedure to written representations was justified, appropriate and fair to all parties.

Onus and standard of proof

11. The legal grounds of appeal (b), (c) and (d) in Appeal A and the LDC appeal are determined on the facts of the case and relevant planning law. Planning merits are considered only under the ground (a) appeal, the deemed planning application.
12. Under section 173(1)(a) of the 1990 Act an enforcement notice must state the matters which appear to the local planning authority to constitute the breach of planning control. Case law has confirmed in the legal grounds of appeal the burden of proof is on the appellant and the standard of proof is the balance of probabilities. The evidence will be assessed accordingly.
13. The appellant was advised of the onus and the standard of proof in the start letter from the Planning Inspectorate dated 22 August 2025. The appellant was reminded of the correct approach to the provision of evidence in the Note of the CMC dated 20 October 2025. The appellant incorrectly sought to place the burden of proof on the local planning authority, as evident in the final submissions received on 12 January 2026³.
14. Planning Practice Guidance on Lawful Development Certificates states the applicant is responsible for providing sufficient information to support an application⁴. A local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. This approach to evidence that is not corroborated applies equally in the legal grounds of appeal.

Statutory Duties

15. I have been mindful throughout these appeals to ensure fairness in the proceedings for both the appellant and the Council, having full regard to Article 6 of the Convention⁵, as set out in Schedule 1 of the Human Rights Act 1998 and to the Public Sector Equality Duty (PSED).

² Inspector's Note 2: Procedure dated 18 December 2025

³ Appellant's Response to the Local Planning Authority's proof of evidence (grounds b-g), for example on pages 16, 20, 21 and page 23.

⁴ Paragraph: 006 Reference ID: 17c-006-20140306

⁵ The European Convention on Human Rights

16. The PSED and the appellant's rights to a private and family life, home and correspondence under Article 8 and to property rights under Article 1 of the First Protocol would be engaged in grounds (a) and (g). The legal grounds do not allow for consideration of the effect of the decision on individuals and their rights. However, the statements and evidence related to personal circumstances of the appellant indicate the reasons behind the household arrangements and use of the property described by the appellant.
17. The Council has demonstrated awareness of their statutory duties and the appellant's stated grievances over the Council's conduct are not matters for my consideration through this appeal process.

The Land

18. Referring to the Council's evidence, Number 116 was built as an end of terrace, two storey dwelling house with loft. The planning history does not include any approved material change of use affecting the property and a Class C3 dwelling house is the baseline lawful use.
19. Land Registry information indicates the appellant acquired the property in November 2000. The appellant gave the dates of 1999 and 2001. All dates are within a roughly similar time period and establishing an exact date is not critical to these appeals.
20. The internal layout plans submitted by the appellant are not dated or labelled. However, they reflect the layout seen on the appeal site visit. The ground floor has two habitable rooms off the hallway, one at the back and a smaller room at the front. The stairs lead up to four rooms on the first floor – two at the back and two at the front. A staircase provides access to the loft where the living space has been facilitated by the insertion of a dormer window and two roof lights. A noticeable feature are the internal partitions which create a shower room with toilet within each room on the first floor and in the roof space. On the ground floor space has been enclosed to form store and utility cupboards and toilet/washing facilities. The rear ground floor room has the only means of access into the rear garden.

Article 4 direction

21. The entire Borough is covered by an Article 4 direction made under the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). The direction came into force on 1 January 2021. As a result, the permission granted by article 3 of the Order does not apply to development in Class L of Part 3 Schedule 2, consisting of a change of use of a building from a use falling within Class C3 (dwellinghouse) to a use falling within Class C4 (houses in multiple occupation).

The Evidence

22. As the onus of proof is on the appellant in both appeals, the focus in this section is on the main points of the appellant's evidence on the legal grounds, which will then inform consideration of the specific issues in the appeals.
23. The evidence to support the application for the LDC was from various sources, including advertising material, on-line correspondence, utility bills and records of payments, TV licence confirmation, electoral register information and extracts from

tax returns, all as listed on the LDC decision notice. A similar set of evidence was submitted when making the appeal against the enforcement notice.

24. None of this evidence is precise on the actual use of the property. At most the documents provide some support that 116 Carr Street was the appellant's address and was resident there. Over the relevant period other people probably were living at the property but the length of occupancy, the room occupied and the terms of occupancy are all very uncertain. The plans of the internal room layout are not labelled or annotated and therefore are not precise and are of limited assistance.
25. A lot of additional documents were submitted by the appellant at the proof of evidence stage.
26. Note on house share agreements and occupation. The appellant described the nature of the use of the property as a resident-led house share. More particularly, the appellant lived in the house throughout and unrelated adults occupied individual rooms while sharing facilities as part of a single household. It was a lived in home, not a commercial letting operation. Agreements were described as written simple house share understandings. Many residents stayed 6 months or longer but some left earlier due to unforeseen circumstances. As a result there was a natural turnover and occasional re-occupation in the same year. The submitted agreements were described as contemporaneous records showing long standing continuous residential house share with the owner in residence and successive unrelated adults occupying rooms under terms accepted by payment and occupation.
27. Personal statement of truth dated 15 December 2026. In summary this statement explains that the household arrangements supported a stable, socially connected way of life that allowed the appellant to remain independent, responsible and engaged with others
28. The sets of agreements covering the periods 2013/2014 to 2022/2023. All the agreements are worded the same and set out how the house operated and understandings on various matters including tenancy, social and house arrangements. The agreement is not in the style of a formal document and has no individual signatures or verification. At the top of each agreement is the handwritten name of the tenant and the start date (month and year). The earlier sets of agreements include the room number but this information is generally omitted in the later sets. Comparing the handwritten details of tenants, rooms and rents, there are significant inconsistencies with other evidence.
29. Early on in the appeal process, the appellant submitted copies of tenancy agreements that were drafted in more formal language and were described as assured shorthold tenancy agreements. The tenants named in the agreements, which included means of identification such a passport photo or student card, do not appear in the house share agreements, apart from one person. Even so, their period of tenancy, starting July 2020 does not match the period of October 2015 to October 2016 in the assured shorthold tenancy document.
30. Discrepancies also occur when comparing the house share agreements with the rental records, referred to below. There are numerous instances where amounts of rent do not tally and instances where rental income is itemised in months that are not covered by an agreement. However, a number of names appear in the independent occupancy evidence, as referred to below.

31. The appellant acknowledged the informal nature of the records and inaccuracies. The ambiguities cast serious doubt over the reliability of the evidence.
32. Rental records and household context. The documents consist of screen shots of the appellant's handwritten working notes basically itemising incoming rents and costs per month, covering two periods 2003 to May 2005 and 2011 to March 2024. From September 2013 the records follow a fairly consistent pattern, probably indicating four rental amounts for each month. The appellant believes the rental records demonstrate continuity of residential occupation and shared living, whilst accepting they are incomplete and not entirely accurate. Attention is drawn to the reduced income during internal works between June and December 2023.
33. The appellant's commentary is at a general level rather than specifically relating entries and records to the points they are meant to show. Even on a basic review questions arise. There is little to relate the income entries to the specific rooms within the property and they could be rents from another property. Outgoings remain constant over extended periods and the marked fall in outgoings per month from January 2020 is not explained. The Council has highlighted the inconsistency in figures between the records and the tenancy agreements.
34. Police certificate dated 2 October 2025. The appellant considered this document provides confirmation of their lawful and honest conduct and referred to the address stated, which is not the appeal property, as a correspondence address.
35. For planning purposes, the usual means of confirming truthfulness is to submit statutory declarations or to give oral evidence under oath. The certificate adds little. The address does not support the appellant residing at Number 116 throughout, although the Council considered the discrepancy was not sufficient to raise new concerns on this point.
36. Internal works. The appellant provided a signed agreement with a builder (June 2023) that set out measures to minimise disruption to occupants when en-suite bathroom facilities and limited light food preparation areas were installed. The purpose of the document was to show the continued occupation and normal function of the home throughout the works.
37. This document indicates the approximate time period of the works but is of limited assistance in confirming the details of use. A certain amount of disruption would have been probable in view of the size of rooms on the first floor and the changes to internal arrangements and shared facilities. However, continuity of occupation in some form would have been possible.
38. When making the LDC application the appellant stated the en-suite installations were carried out over a period of three months due to builder availability. During the works there was no disruption to the communal areas including the kitchen and living areas, and the property continued to operate as a Class C4 HMO throughout. However, in correspondence with the Council, the appellant is reported to have taken the opportunity to have the works done during a period of three to four months when there were no guests, lodgers or other occupants. At the time, the appellant did not dispute this position⁶.

⁶ Appendix 4vi to the Council's statement of case (enforcement)

39. Use and works to loft space. The requests for estimates of works to carry out minor internal improvements, including provision for a light food preparation area and retention of ladder based access date back to January and February 2009. At the time the stated reason was to make the loft space safer and more comfortable to use. The request and 'estimate' for an electrically assisted loft ladder was dated May 2018. The appellant's narrative explained the loft space was in continuous use as living accommodation since 2009, first as a bedroom for their own occupation while renting out other rooms in the house. Smaller scale improvements followed, such as additional windows and stairs were introduced later when access by ladders became more difficult. Throughout, the loft remained part of the main dwelling and was continued to be used by the appellant in connection with the residential occupation of the house.
40. The document identifies the loft space as the appellant's room initially and has some information of when works were undertaken to provide habitable and later more accessible space. However, the requests and estimates are not formal specifications of works, invoices or receipts. There is very little information on the installation of the dormer window and stairs, which when carried out would be disruptive works in a small house and unlikely to be compatible with continued occupation of the loft space.
41. Independent housing assessment, dated 11 December 2024, was for separate administrative purposes to the appeals. In summary, the conclusions were: the accommodation offered sufficient space within the dwelling for all occupants, the occupancy of the applicant would not infringe upon the space standards, the property was fit for human habitation with no significant hazards present.
42. The assessment was based in part on requirements in the Housing Act 1985 regarding overcrowding based on the room standard and the space standard. The appellant confirmed the report was for a purpose unrelated to the appeals. The extract from the assessment is of little assistance in these planning appeals, where good standards of design are required, not the absolute minimum.
43. Independent occupancy evidence. The occupancy data consists of a list of about 60 named individuals who have been associated with the appeal property. The appellant explained the purpose of the investigator compiled list is to provide objective, third party corroboration of residential use to support the appellant's own records and factual history of the residential use of the property. The pattern is described by the appellant as one of continuous occupation and turnover over many years involving multiple individuals.
44. In my view this unusual form of evidence adds little to the appellant's case. The continuous residential occupation of the property is not in dispute, the issue is the nature of the occupation – whether as a mixed use as a HMO and for short stay accommodation, and whether a material change of use took place.
45. Household activities. The appellant put together a collection of tickets to theatres, sporting events and other entertainment venues, together with a range of programme covers and other activity materials. The aim was to show and support the case that the property operated as a long standing and established household where occupants lived together in a meaningful and social way. In the appellant's words, the property functioned as a cohesive shared living arrangement.

46. The intention is understood but the collection at best suggests an individual's attendance at events. The material falls far short of the quality of evidence required to support legal grounds of appeal. Reliance falls primarily on the appellant's own statements.
47. Statement from lodger. The author stated they genuinely enjoyed their time there, living in a home built around trust, mutual respect and a strong sense of shared life. The statement is not signed or dated and does not identify the period of occupation. The document has little weight.
48. Environmental Health Inspection. This document refers to a Mandatory HMO licensing inspection of the property, carried out on 2 August 2024. The two issues identified and required to be addressed were: the inappropriate key locks on the inside of all bedroom doors and all the bedrooms were undersized, below the statutory minimum size. The appellant pointed out there were no concerns about the existence of kitchens in individual rooms. This was contrasted with the local planning authority's concern that the bedrooms contained facilities or kitchenettes indicative of self-contained accommodation.
49. The Environmental Health inspection was in respect of HMO licensing and the adequacy of the accommodation to meet the required standards. The planning authority's assessment was from a different perspective. The presence of light food preparation areas within bedrooms would be consistent with a use as short term lets.
50. The subsequent email exchange between the environmental health officer and the appellant is significant⁷. The officer reported all the bedrooms were undersized and must not be used as bedrooms. The appellant confirmed the layout supported their current and future needs and explained short term lets were offered to provide additional income and social contact. The plan was not to offer the property as HMO accommodation.
51. These comments are not consistent with other statements by the appellant on living together as a household with shared living arrangements or the suggestion that income was very much a secondary factor.
52. Additional supporting statements have been provided on care and daily living support and the appellant's understanding of home and family. The stated intention of the appellant has been to provide a genuine home environment based on shared living and mutual respect rather than to run a business or commercial enterprise.
53. In view of the emphasis placed on shared living and the home environment, the absence of a signed witness statement or statutory declaration from any of the occupiers of the property is a notable omission from the evidence base. There are ambiguities throughout the documentation and little in the way of drawing facts together. The Council's tracker of occupation⁸ is an attempt to fill this gap.

Accommodation

54. The information on the history of the internal layout and use of accommodation is provided by the appellant and from documents submitted by the Council. Internal

⁷ Appendix 4 iv to the Council's statement of case

⁸ Appendix 5 to the Council's statement of case

works in 2023 and works to the loft space have been referred to in the section above.

55. A planning application was made on 12 March 2021 by the appellant for internal stairs. The reason for the alteration described the loft as being used as a study room, hobby and storage, accessible via a ladder. An accident prevented the use of a ladder and so a stair was needed to access the loft. The application was not determined because no permission was required for the internal works. The probability is the installation of a staircase would have caused disruption and necessitated temporary changes to occupation and living arrangements.
56. The appellant's plans accompanying the application for an HMO licence dated 2 February 2020 showed the loft, access by ladder, and the rear ground floor room would not be occupied. The four bedrooms and a bathroom were on the first floor with a ground floor kitchen at the front of the property. The HMO licence was issued on 30 August 2021. The licence was valid for 3 years and allowed a maximum of 4 individuals/households to occupy the house. The standard conditions document provided for all four bedrooms to be on the first floor.
57. The private rented property condition report dated 2 August 2024 (HMO inspection notes) identified changes that had occurred since the HMO licence application. The larger rear ground floor room was a kitchen with a bunk bed and toilet. The front ground floor room was described as a spare room, with an en-suite, mini kitchen and a sofa (no bed). The four bedrooms on the first floor each had an en-suite and mini kitchen (3 with a fridge). The remaining room had an en-suite and kitchenette. The comments at the end of the report stated the 3 storey house had 6 rooms, all the bedrooms were undersized and according to the landlord some of the rooms were used as Air BnB. The set of photos said to be taken on the inspection showed a bunk bed above a sofa in the rear kitchen. The loft room was furnished but did not look to be occupied. This contemporaneous inspection report probably is an accurate description of the internal accommodation at the beginning of August 2024.
58. All the evidence considered above is taken into account in the legal grounds of Appeal A and in determining Appeal B.

APPEAL A

Appeal on ground (b): *the matters stated as the breach of planning control have not occurred*

59. The allegation in the enforcement notice describes the new use as a mixed use as a House in Multiple Occupation (HMO) and for short stay accommodation. The mixed use is a sui generis use (of their own kind). The two main component uses may fluctuate in their intensity from time to time and are not confined within physically separate areas. An essential feature of an HMO is that the living accommodation is occupied by persons who do not form a single household. Certain tests require the occupiers to share basic facilities.
60. The main issue is whether the use of the property as a mixed use for a HMO and for short stay accommodation has occurred as a matter of fact.
61. Number 116 was designed and built as a dwellinghouse in the sense of providing the facilities required for day-to-day private domestic existence. The issue is to

assess how the living accommodation was used and occupied in the period leading to the issue of the enforcement notice in July 2025.

62. The main thrust of the appellant's case became the use of the dwelling as shared residential accommodation where residents lived together as a household. For planning purposes, a Class C3 'dwellinghouse' and 'household' have specified meanings, set out in The Town and Country Planning (Use Classes) Order 1987 as amended (the Use Classes Order)⁹ with reference to the Housing Act 2004.
63. In terms of the layout and facilities afforded by the property, the probability is by the end of 2023 the en-suites were in place in all the first floor rooms and the front ground floor room. Food preparation areas had been provided in all four of the first floor rooms. The loft space was accessible by a staircase and was fitted out with cooking and washing facilities. Skylights and dormer were installed. The altered layout would have enabled the property to be used other than as a Class C3 dwelling house, whether as a HMO, for short-term lets or as a sui generis mixed use.
64. There is no evidence that the occupiers of the property were members of the same family or lived together as a family. The appellant's descriptions of the use do not show the appellant has lived there as a single person household – no separate living accommodation has been identified for example. There is a notable absence of defined personal living space with suitable accessibility in the available accommodation details.
65. The appellant explained the regular social contact with residents provides support and improves his well-being. However, the appellant is assisted with day to day living tasks and with practical support from a non-resident who has been attending the property for several years and whose role also includes routine cleaning. There is nothing to indicate care has been provided by any of the residents.
66. The appellant has not stated with any degree of certainty the number of people living in the property at any one time or over a period of time. The Council's tracker for 2013 to 2025 presents an incomplete picture but is a good attempt at pulling together the various sources of the appellant's evidence. The appellant has not disputed the tracker or presented an alternative. Over most of the period there were six occupiers or less, although on occasion, such as in 2017, occupation appears to have exceeded six. The tracker does not include the appellant.
67. The tracker and the appellant's personal commentary and evidence on tenancies and lets all indicate there has not been a predetermined group or an established, stable group of people occupying the property. Instead, there has been a regular turnover, whether linked to the educational calendar or other circumstances. The tracker illustrates this point in 2022, 2023 and 2024.
68. The form of tenancy agreements has varied over time and there appears to have been an element of informality in arrangements. However, the evidence is of individual (not group) tenancies and regular rental payments. The appellant, not a household group, has made and overseen all the arrangements related to lettings and termination. The appellant as landlord takes the responsibility for payment of utility bills and other property-related outgoings (for example, internal alterations, cleaning services). The letting of rooms as Air BnB is evidenced in statements by

⁹ See Appendix 1

the appellant to officers of the Council and in the evidence summarised in the tracker. The appellant has also stated the property was a Class C4 HMO, including when making the LDC application.

69. The appellant stated occupants interacted socially as a group, regularly spending time together in shared activities and events outside the home and with shared experiences and relationships beyond co-occupation. The evidence on this factor is weak and there is a surprising lack of any supporting personal statements on the extent of shared living from recent occupiers. As seen on the appeal site visit, individual rooms appeared to be private spaces, secured by door locks. Socialising is compatible with a mixed use.
70. Latterly rooms have had individual food/fridge storage facilities and there is provision to cook and eat within bedrooms. All bedrooms have washing and toilet facilities. The former shared areas (kitchen and bathroom), as identified in the HMO licence application, either have been incorporated into individual rooms or as with the former front kitchen adapted to enable personal use.

Conclusions on ground (b)

71. The evidence indicates fluidity in residential use. The probability is the property was not in use as a Class C3 dwellinghouse. The evidence supports a conclusion that as a matter of fact and degree the use of the property as a mixed use for a HMO and for short stay accommodation has occurred as a matter of fact.

Appeal on ground (c): *that the matters do not constitute a breach of planning control*

72. Following on from the conclusion in ground (b), the main issue is whether the use of the property for a mixed use amounts to a breach of planning control. More particularly this involves considering whether the mixed use is materially different from the lawful Class C3 use and, if it is, whether planning permission has been granted by development order or other procedure.
73. The act of development identified in the alleged breach is a material change in the use of the property. There is no statutory definition of a 'material change of use', but as a general rule this form of development is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree, which is determined on the individual circumstances of a case¹⁰. The extent to which a particular use fulfils a legitimate or recognised planning purpose is relevant in deciding whether there has been a material change of use. Whether the loss of an existing use would have a significant planning consequence, even where there would be no amenity or environmental impact, may be a relevant consideration.
74. The planning unit is a means of determining the most appropriate physical area against which to assess the materiality of change. In this case, the property at 116 Carr Street is the planning unit, having regard to ownership and occupation and the distinct physical boundaries to the land. The baseline and comparator position is the lawful use of the property as a Class C3 dwellinghouse.
75. Statutory provisions provide useful indicators in deciding whether the use of Number 116 as a mixed use as a HMO and for short stay accommodation is

¹⁰ Planning Practice Guidance: When is permission required? Paragraph: 011 Reference ID: 13-011-20140306

materially different to a Class C3 dwellinghouse. The Use Classes Order distinguishes a Class C3 dwelling house (where residents live together as a single household) from a Class C4 HMO use (a dwellinghouse lived in by not more than six residents as a “house in multiple occupation) and Class C6, short-term lets (use of a dwellinghouse for commercial short-term letting not longer than 31 days for each period of occupation).

76. A change from one Class to another Class may not necessarily involve a material change of use. However, where it does, the GPDO grants planning permission for development consisting of a change of use of a building from a use falling within Class C4 to a use falling within Class C3 and vice versa from Class C3 to Class C4. Significantly in Tower Hamlets an Article 4 Direction removes those permitted development rights where the change involves going from Class C3 to Class C4.
77. As regards short-term lets, the Greater London (General Powers) Act section 25 (as amended) provides the use as temporary sleeping accommodation of any residential premises in Greater London involves a material change of use of the premises and of each part thereof which is so used where the number of nights exceed ninety in any calendar year. The appellant’s evidence demonstrates the property has been used for short term lets for more than the 90 day limit.
78. In addition, the development plan identifies the functions of different types of residential accommodation and put in place policies on changes of use to HMOs and short term lets to control effects on the housing stock, the ability to meet housing needs, amenity and to ensure space standards are met.
79. This statutory and policy context points to the change of use being material, even allowing for the sui generis nature of the mixed use. There are consequences through the loss of a family sized home for permanent residential accommodation and the reduction in space standards of individual units. The Article 4 direction covering the Borough and the specific statutory control over short term rented accommodation in Greater London confirm the public interest justification for planning control. Specific to the property, the building has remained in residential use but the character and pattern of living have changed and been affected by the turnover of residents that has occurred.

Conclusions

80. As a matter of fact and degree the use of the property for a mixed use as a HMO and for short stay accommodation resulted in a material change of use. The development required planning permission. There are no permitted development rights allowing the change to a mixed use. No planning permission has been granted by the local planning authority. A breach of planning control took place and the appeal on ground (c) fails.

Appeal on ground (d): *that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.*

81. The issue is whether the mixed use has gained immunity from enforcement action through the passage of time. The relevant time period is ten years. The use must be affirmatively established over the period.

82. Therefore the appellant must show on the balance of probability that the material change of use of the property to a mixed use, as described in the notice, took place before 22 July 2015 and that mixed use has continued over a period of ten years without any material breaks in use. In order to assess continuity, a matter to consider is whether there was any time during the relevant period when the Council could not have taken enforcement action against the use of the building as a mixed use, taking account of the availability of the property for use and occupation. The Article 4 direction, which came into force on January 2021, is not applicable to a mixed use and does not affect the relevant date.
83. Notwithstanding the appeals on grounds (b) and (c) the appellant submitted the alleged use had become lawful through the passage of time¹¹. In the final stage of the appeal the appellant placed emphasis on the character of residential use remaining constant throughout the relevant period, notwithstanding changes in layout, occupancy mix or intensity. Despite the appellant's explanations, I consider there is tension between the final ground (d) case and grounds (b) and (c), and the claims in Appeal B.
84. The appellant's evidence summarised and assessed above has to be considered alongside the Council's evidence, which includes Open rent information of various rental listings. The listings clearly relate to 116 Carr Street by reason of the location map, listed facilities and transport in the area, the similarities in internal layout, accommodation and décor. The listings indicate several significant factors.
85. The list accessed 10 December 2024 refers to lets agreed at various times in respect of an en-suite room available in a shared house, a loft studio flat, a studio flat (which the photo shows as the rear ground floor room with a bed and which currently functions as a kitchen) and a 5 bed three bathroom end terrace house. A second document shows details of the 5 bed end terrace let. The property was taken off the market on 10 August 2020 with a let agreed at £4,200 per calendar month (pcm). At the time the loft was accessible by a loft ladder, the main kitchen was the front ground floor room and the main bathroom included a bath with shower. The let agreed as on 24 November 2023 was the rear ground floor room, described as a studio flat with open plan kitchen diner and a garden area with room for a bike. The rent agreed was stated as £1,750 pcm.
86. The let agreed as of 19 July 2024 was described as a loft studio flat at £1,600 pcm (bills included). Access was shown as via a loft stair well. The let agreed as of 9 December 2025 referred to a room in a shared house with 5 bedrooms and 5 bathrooms. Rent was from £1,150 pcm. Two rooms were let and 3 rooms were said to be available.
87. A mixed use of the property is not consistent with the lets of the entire property as a house in August 2020 and the lets in November 2023 and July 2024 for self-contained studio flats in the ground floor rear and the loft. The listings also are inconsistent with the appellant's statements regarding the appellant's occupation of the property, the evidence on rental receipts, the use of the loft space and the appellant's descriptions of a residential led house share and non-commercial operation.
88. The appellant points to online marketing material and listing evidence often using generic or aspirational terminology and reflecting how accommodation was

¹¹ Appellant's Response to the Local Planning Authority's Proof of Evidence (grounds b-g) section 6 page

advertised at particular points in time. The information does not demonstrate how the property was actually used. The suggestion is no reliance may be placed on such evidence. The appellant claimed the material was consistent with use within Class C3.

89. The appellant's attempt to downplay the relevance and reliability of the Council's listing evidence contrasts with the earlier stages of the appeal where the appellant submitted information from websites and on-line messages to support their case. I consider the main significance of the listings evidence is the serious doubt it casts on the accuracy of the appellant's version of events and the continuity of a mixed use over the relevant 10 year period.

Conclusions on ground (d)

90. The appellant has not discharged the burden of proof and evidence from the Council make the appellant's version of events less probable. On the balance of probability the mixed use as a HMO and for short stay accommodation has not gained immunity from enforcement action through the passage of time. The appeal on ground (d) does not succeed.

Appeal on ground (a), the deemed planning application

91. The description of development for which planning permission is sought is derived directly from the description of the breach of planning control - the material change of use of the property from a single dwelling to a mixed use as a House in Multiple Occupation (HMO) and for short stay accommodation.
92. The main issues are:
 - The effect of the development on existing housing stock, housing supply and the ability to meet housing needs within the Borough.
 - Whether the living accommodation is of an adequate standard, having particular regard to internal space standards and the amenity of the occupiers and neighbouring residents.
 - The appellant's personal circumstances and accommodation requirements.
93. The use of planning conditions, whether to enhance the quality of development or address any identified harm, will be taken into account.
94. The development plan is the London Plan (2021) and the Tower Hamlets Local Plan 2031 (2020). Other considerations include the National Planning Policy Framework. The London Plan Guidance: Housing Design Standards (June 2023), cited in the reasons for issuing the notice, applies only to Use Class C3 residential development and does not provide guidance on other specialist forms of housing such as shared living, temporary accommodation and student accommodation.
95. The appellant's level of engagement with this ground of appeal is noticeably less than with the legal grounds. There is no assessment of the development at issue against relevant policies in the development plan or the Framework. No planning conditions or obligations are put forward for consideration. The appellant's case appears primarily to be that the property remains in Class C3 residential use as a family home¹². Personal circumstances are emphasised.

¹² See for example Appendix 2i Rebuttal submitted as Final Comments on 12 January 2026.

96. In determination of a ground (a) appeal, section 177(1)(a) of the 1990 Act provides for permission to be granted in relation to the whole or any part of the matters constituting the breach of planning control, or in relation to the whole or any part of the land to which the notice relates. The Council has addressed the development as a whole. The appellant has not put forward part of the matters as an alternative. To consider a use different to the mixed use described in the breach, or part of the property, would cause injustice to both the appellant and the Council.

Reasons

Housing stock

97. There are no policies specific to the mixed use development. However, the development plan provides a policy overview and context for considering the material change of use.
98. At the strategic level the London Plan puts in place measures to increase housing supply as set out in Policy H1. Tower Hamlets is the Borough with the highest ten year target for net housing completions. Given the pressure for housing and the competing demands for land, Policy H9 promotes the efficient use of housing stock. The policy recognises the role of HMO's in meeting local and strategic housing needs and where they are of a reasonable standard they generally should be protected. The policy also draws attention to the impact of changes of use from housing to short stay holiday rental accommodation for more than 90 days per year¹³. The reduction in the supply of homes for people to live in and the detriment to community cohesion and neighbour amenity are identified as potential impacts. Policy E10 identifies appropriate locations for visitor infrastructure and restricts the provision of serviced accommodation where it would compromise local amenity or the balance of local land uses.
99. The Tower Hamlets Local Plan in Policy S.H1 sets out the measures to meet housing needs and achieve housing targets. There is support within the housing market for a variety of housing products and the needs of specific communities are recognised. In the supporting text, there is support for the retention of existing self-contained housing. Family housing requires particular protection, due to high levels of identified need. Policy D.TC6 sets out the criteria for the location of short stay accommodation.
100. The site is located in an area where housing is the dominant land use, supported by community and recreational facilities and business premises. The loss of a family home for occupation by a single household and the introduction of the element comprising short term accommodation are not in accordance with the general thrust of policy and locational criteria. The acceptability of the HMO type accommodation component is mainly dependent on satisfying space standards.

Standard of living accommodation

101. The Framework identifies good design as a key aspect of sustainable development. Policy D6 of the London Plan requires housing development to be of a high quality design and provide adequately sized rooms with comfortable and functional layouts. In terms of private internal space a one bedspace single bedroom must have a minimum floor area of at least 7.5m² and be at least 2.15m

¹³ The explanatory text confirms it is unlawful for homes in Greater London to be used for short term holiday accommodation for a cumulative period of more than 90 days a year without seeking planning permission.

wide. A two bedspace double bedroom must have a floorspace of at least 11.5 m². Any area with a headroom of less than 1.5m is not counted in the gross internal area unless used solely for storage. These requirements reflect the nationally described space standards in statutory guidance published in March 2015. The standards apply to all new self-contained dwellings of any tenure. Also, they are relied on by policies in the Tower Hamlets Local Plan for shared houses, flats and non-self-contained dwellings.

102. Policy D.DH8 of the Tower Hamlets Local Plan is directed at ensuring residents have a good level of amenity, including good levels of privacy, an acceptable outlook from habitable rooms and adequate levels of daylight and sunlight. Policy D.H3 requires development to meet as a minimum the London Plan space and accessibility standards, including a minimum of 2.5m floor-to-ceiling height. Policy D.H7 applies to housing with shared facilities (houses in multiple occupation) and sets out criteria for when proposals will be supported and when their loss will be resisted. One criterion for support is that new HMO's must comply with the relevant standards and satisfy the housing space standards outlined in Policy D.H3 and Policy D.DH8.
103. The appeal site visit confirmed that room size is the main concern. In particular, the upper floor rooms and loft demonstrated the inadequacies. In each first floor room the single bunk style bed was elevated to create space below for a chair and was accessible by a step ladder. The bed was positioned across the window to the room and so the bed was visible from the street. The headroom above the bed was restricted. The en-suite addition, installed around 2023, had very limited space. The converted loft because of the sloping ceiling had areas where the floor to ceiling height was very low, notably above one side of the double bed. The Council's planning officers reported all 6 bedrooms were under the 7.5m minimum with all but one being under 6m. This conclusion is consistent with the report of the Housing Licensing Team who visited in August 2024 and recorded the area, in square metres, of the first floor bedrooms as 6.4, 5.69, 5.43 and 5.5. The appellant was critical of reliance on housing licensing material but did not dispute or put forward alternative measurements to those provided by the Council's planning and housing officers.
104. Being an end of terrace property assists in the provision of adequate daylight and sunlight. Habitable rooms have an acceptable outlook, especially those on the upper floors, helped by the proximity of the property to the Canal. The rear kitchen /living room has access into the rear garden, which has a small patio and green space. The mixed use function and the letting information suggests that this shared living space and outdoor space may not always be available to all residents.
105. The Council, citing Policy D.ES9, expressed concerns about noise for occupants of the property and neighbouring residents, taking into account the internal layout and the intensity of use in terms of number of residents and increase in activities. Balanced against these considerations the appellant has explained the sense of community encouraged within the property. I consider residents would expect a fair amount of interaction in respect of the HMO component use. However, the mix with short term accommodation, probably with a greater turnover of residents and less commitment to shared values, would add a further layer of interaction and potential harmful effect on the home as a comfortable place of retreat. The shared

party wall and the closeness of the front door with the neighbouring property are factors that would increase the likelihood of noise disturbance to neighbours.

106. The independent housing assessment submitted by the appellant was not carried out for planning purposes related to the appeal and made no assessment against development plan policy requirements. Assessment criteria, including fit for human habitation and presence of hazards, are some way below the much higher standards required by planning policy.
107. Conclusions. The development does not achieve the internal space standards required by the development plan. In addition, a good level of privacy is not achieved for residents of the first floor rooms. The resultant harm to residents' living conditions is not cancelled out by acceptable outlook, sunlight and daylight. The mixed use and associated inappropriate layout, would have an adverse effect through noise disturbance, both to residents of Number 116 and the neighbouring dwelling. The development fails to comply with Policy D6 of the London Plan and Policies D.H3, D.DH8 and D.ES9(1a) of the Tower Hamlets Local Plan.

Personal circumstances

108. In summary, the appellant submitted the property was progressively adapted to meet practical and medical needs, including the appellant's own requirements as a live-in landlord with mobility and health challenges. The modifications are said to have supported the functionality of the home and the appellant's ongoing well-being. Supporting medical information has been provided which indicates the medical disabilities and the implications for daily life and well-being. The Council has not disputed the evidence. At the community level, the Framework expects decisions to enable and support healthy lives, through both promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs.
109. The primary considerations derived from the evidence are the ability to accommodate shared living arrangements and ensure ease of accessibility. The flexibility in use and occupation has assisted over time. The professional source of the medical reports and letters adds significant weight to their reliability.
110. However, the medical report dated 1 February 2025 probably was not written to inform the appeal and appears directed at securing additional mobility and access assistance. The evidence does not demonstrate how the use and accommodation responded to the stated importance of a private environment and private quiet space. The internal layouts and letting information are not fully consistent with the appellant being a resident landlord throughout.
111. In conclusion, the physical accommodation and living arrangements have evolved and been adapted over time in response to the appellant's health requirements. The probability is an alternative residential use and internal layout could be compatible with and respond to the personal circumstances. The individual requirements of the appellant may evolve further or the appellant's interest in the property may change in the future. Such considerations reduce the weight attached to personal circumstances.

Conditions

112. The Framework states planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Attention was drawn to the use of conditions in the Note of the CMC.
113. Neither the Council nor the appellant put forward any planning conditions, whether to mitigate any identified harm, to control aspects of use or occupation, or to secure essential facilities or attributes of the development. No conditions were included in the draft statement of common ground. In such circumstances case law has established the principle that an inspector is not obliged to cast about for conditions not suggested by the parties.
114. Nevertheless, the appellant has explained the use of the property has evolved and been adapted to meet personal circumstances. In such a case a planning permission for time limited period, personal to the appellant, requires consideration, with a view to ensuring the mixed use ceased when the appellant no longer lived in the property. The mixed use, with a regular turnover of residents, makes the wording of a condition that meets the six tests challenging. In the absence of an acceptable proposal, it would be inappropriate to depart from the principle, stated in the Planning Practice Guidance, that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. A personal permission would not resolve the below standard living conditions and resultant conflict with the development plan.

Conclusions on ground (a) appeal

115. A material change to a sui generis mixed use of the appeal property represents a variation in housing provision but is not one supported by strategic and local policies. The internal space standards and levels of privacy achieved in the layout are substantially below those acceptable. The personal circumstances of the appellant do not outweigh these serious issues. It has not been demonstrated that the development could be made acceptable by the use of planning conditions.
116. The development does not comply with Policies H9, E10 and D6 of the London Plan and Policies S.H1, D.TC6, D.H3, D.DH8, and D.ES9(1a) of the Tower Hamlets Local Plan. Even though the development meets certain individual needs and locational requirements and has some positive amenity features, the mixed use is contrary to the development plan when read as a whole.
117. A final conclusion on the deemed planning application depends on balancing the fundamental rights of the appellant against the legitimate interests of others and the wider public interest. The shared use of the property is valuable to the appellant and responds to their mental and physical well-being. A refusal of planning permission may require the appellant to reappraise personal living accommodation, although the appellant has not put forward a case specific to maintaining a mixed use within the property. The lack of success on ground (a) would not require the appellant to leave or lose the property. The evidence on the planning history over the appellant's ownership indicates that a different form of residential use may be suitable to the appellant's circumstances and enjoyment of the home.

118. The regulation of the use of land through the statutory process is a legitimate aim in the wider public interest. The interference with the appellant's Convention rights (Article 8 and Article 1 of the First Protocol) is necessary to ensure good standards of housing accommodation in compliance with the development plan. No lesser steps have been identified to achieve this public interest objective. The compliance period would provide time for adjustments and modified arrangements to be put in place. The refusal of planning permission is proportionate and strikes a fair balance between the rights of the individual concerned and the interests of the community.
119. I have also had due regard to the PSED and the contribution of the development in terms of eliminating discrimination against a person with the protected characteristics of disability and the need to advance equality of opportunity. In this respect the evidence relating to the appellant's personal circumstances and the appellant's personal statements are of particular relevance. On balance the identified harms to living conditions and amenity of occupiers outweigh the benefits to the appellant. I conclude that it is proportionate and necessary to dismiss the appeal.
120. Overall, there are no considerations of sufficient weight to indicate that the deemed application should be determined other than in accordance with the direction provided by the development plan. The appeal on ground (a) fails.

Appeal on ground (f): *the steps required to be taken by the notice*

121. The issue is whether the requirements are excessive to achieve the purpose of the notice. A ground (f) appeal is not an opportunity for the appellant to argue that the notice should have a different purpose.
122. The purpose of the notice is to remedy the breach of planning control by ceasing the unauthorised use, and by so doing remedy the associated harms. To be consistent with the description of the breach, and to protect any lawful use rights, the two requirements should be combined into one and require the cessation of the mixed use. A correction to the notice in these terms would not cause injustice to either the appellant or the Council.
123. The requirements do not specify or require the removal of any internal works that have facilitated the material change of use. The Council in their representations on the appeal have reaffirmed there is no requirement to remove the en-suite facilities. The appellant is incorrect to say the notice requires the dismantling of essential features that support their health and housing needs. No lesser steps to achieve the purpose of the notice have been proposed. Proportionality in terms of the personal circumstances and rights of the appellant have been considered fully in the ground (a) appeal and also are considered in ground (g).
124. In conclusion, the requirements are not excessive and the appeal on ground (f) fails.

Appeal on ground (g): *the compliance period*

125. The issue is whether the compliance period is reasonable and proportionate.
126. The appellant requested the period be extended to 18 months, for reasons related to the internal configuration of the property, remote working, disruption to current residents, lack of planning harm and determination of Appeal B.

127. The National Planning Policy Framework confirms effective enforcement is important to maintain public confidence in the planning system. Within this policy context the length of the compliance period should take into account what the recipient of the notice will have to do in practice to carry out the remedial steps and consequently how much time is reasonable for that purpose. Amenity factors are an important consideration too.
128. In the ground (f) appeal the requirements are confirmed as ceasing the mixed use. In order to comply with the notice no works and no changes to the internal configuration of the property are required. Consequently, there would be no disruption or disturbance to physical living or working arrangements. Existing tenants probably would have to find alternative accommodation. However, the evidence has shown a regular turnover of residents over the years. Short term lets, by their nature, would not be significantly affected. The appellant has by his own account typically let rooms to students, whose accommodation needs probably would be related to the academic year. Tenancies have been on a more informal basis and current residents should be aware of the ongoing enforcement action. Nevertheless, compliance with the notice would bring changes to the living environment. The appellant has explained the benefit to mental health and well-being of stability and predictability and that adaptation to rapid change is difficult.
129. Balancing all the various factors I conclude a compliance period of nine months would be reasonable and proportionate. The ground (g) succeeds to this extent.

Appeal A Conclusion

130. For the reasons given above, the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

APPEAL B

131. Under section 191(1) of the 1990 Act if any person wishes to ascertain whether any existing use of buildings or other land is lawful they may make an application for that purpose to the local planning authority, specifying the land and describing the use, operations or other matter. Subsection (4) makes it clear that the local planning authority is not constrained by the description on the face of the application. It has power to modify that description and to substitute a new description. The Secretary of State has the same power on appeal.
132. The main issue is whether the Council's decision to refuse to issue a certificate is well-founded. In summary, under section 191(2) lawful development is (a) development against which no enforcement action may be taken (whether because planning permission is not required or because the time for enforcement action has expired or for any other reason), and (b) where no enforcement notice is in force. In this case the enforcement notice post-dated the LDC application and hence the main consideration is the ability to take enforcement action.
133. To recap, the appellant was seeking to confirm the lawfulness of the use of the property existing at the time of the application, 9 February 2025. The use identified in the application and as determined by the Council was a small HMO under Use Class C4. The appellant confirmed that was the use for consideration in the appeal, although this has not been expressed consistently throughout the process.

In the final set of submissions dated 12 January 2026 the appellant maintained the pursuit of a LDC reflected an understanding of the appropriate mechanism to resolve regulatory uncertainty. The appellant maintained the functional use of the planning unit remained within Use Class C3¹⁴. The property functioned as a single household, notwithstanding different patterns of occupation over time and the use as a single dwellinghouse had not been displaced.

134. The evidence comprises the information and documentation submitted with the application and the appeal. I also have considered the additional relevant evidence submitted with Appeal A, especially to support the legal grounds. Planning Practice Guidance confirms an application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates.

Use Class C4 Houses in multiple occupation: Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”.

135. In considering whether the use was lawful on 9 February 2025 a period of ten years continuous use must be demonstrated on the balance of probability.
136. The application form stated that “The property is currently used as a small House in Multiple Occupation (HMO) under Use Class C4. It has been in continuous use as an HMO since January 2013 and earlier, accommodating between 3 and 6 unrelated individuals who share communal facilities such as the kitchen, bathrooms, and living areas. I live on-site and share some of these facilities with the tenants. The communal areas, including the kitchen, are located on the ground floor, while individual bedrooms are spread across the upper floors of the property.” The tenants were described as primarily students and postgraduates who typically stayed for the academic year or full calendar year, with summer occupancy often taken by penultimate-year students on internships. There were also requests from people between flats needing accommodation for a month or so. The number of tenants was said to have always stayed within the limits of Use Class C4 (3 to 6 unrelated individuals).
137. Evidence in support of the use as a HMO is the appellant’s application for a HMO licence on 2 February 2020 and the physical layout of the accommodation within the property at the time that allowed for shared use of a bathroom and kitchen. The application was for an additional licence, a form of licence that applied to all properties with 3 or more occupiers living as 2 or more households who share facilities (eg bathrooms) and pay rent. The application was for a new licence, not a renewal. The licence issued in August 2021 placed a restriction on the number of individuals/households and required all bedrooms to be on the first floor.
138. However, the information with the LDC application was short on detail and lacked precision. The HMO licence application was not made in 2013 but some seven years later. Not all the property was included in the proposal – the attic and rear ground floor room were excluded. Documentation submitted subsequently and the appellant’s own descriptions of use suggested the property was not only used as a HMO over the ten year period and short term lets took place, outside academic terms for instance.

¹⁴ Appellant’s response to the Local Planning Authority’s Proof of Evidence (Grounds b-g) pages 10 and 11.

139. On the balance of probability, I conclude the property was not in a single use as a Class C4 HMO for a continuous period of ten years prior to 9 February 2025. The evidence does not identify a shorter four year period of continuity of use that would apply to a dwellinghouse.

140. The alternative timescale, considered by the Council, is whether on the balance of probability the property was in use as a Class C4 HMO immediately prior to the Article 4 direction coming into force on 1 January 2021. The evidence is conflicting, when account is taken of the appellant's descriptions of the use and letting information. There is a lack of documentary evidence, especially for the second half of 2020. The house share agreements and independent occupancy list, for example, lack detail and reliability. Open rent listings provided by the Council indicate the property was let as single dwelling in August 2020. The burden of proof has not been discharged. A lawful use as a Class C4 HMO has not been affirmatively established.

Mixed-use: long/mid/short term lets incl. C3, C4 & sui generis with landlord in residence

141. When it came to the appeal, the appellant stated the focus of the Class C4 description was "a simplified legal representation of what has been a longstanding mixed-use character, shaped by demand from students and young professionals".¹⁵ The use was described as a consistent blend of long term student occupation (Class C3), shared housing among unrelated residents (C4), occasional short-stays, via platforms like Airbnb (sui generis) and a full time on-site landlord. The property was said to have been in this type of use since at least January 2013.

142. The descriptions of the use placed greater emphasis on the range of accommodation that had been let since 2013, compared to the LDC application. The use and type of occupation have similar elements to the use described in the enforcement notice, the notable exception being the inclusion of Class C3. When considering the ground (b) appeal I concluded the mix of uses did not include a component within Class C3, as defined in the Use Classes Order. There is no evidence in Appeal B to support a different conclusion.

143. On the balance of probability, the property was not in a mixed-use: long/mid/short term lets including C3, C4 & sui generis with landlord in residence for a continuous period of ten years prior to 9 February 2025.

Other uses

144. The lawfulness of a mixed use as a House in Multiple Occupation (HMO) and for short stay accommodation was considered and rejected in the ground (d) appeal (Appeal A). The slightly different ten year period in the LDC appeal does not change the conclusion.

145. The appellant's final submissions maintained the functional use of the planning unit remained that of a single dwelling house within Use Class C3, based on all the evidence. However, I concluded in the ground (c) appeal (Appeal A) that the evidence base showed a material change of use from a dwellinghouse to a mixed use had occurred, as alleged in the enforcement notice.

¹⁵ Appeal form Section E

Conclusion

146. For the reasons given above the Council's refusal to grant a certificate of lawful use or development in respect of "C4 - Houses in Multiple Occupation" is well-founded. Furthermore, a use with a modified description has not been shown to be lawful. The evidence is not sufficiently precise, clear and unambiguous, whether a period of ten years or four years is considered. The appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

DECISIONS

Appeal ref APP/E5900/C/25/3371349

147. It is directed that the enforcement notice is corrected in section 5 by the deletion of requirements 1), 2) and 3) and the substitution of the wording:

- 1) Cease the use of the property shown in the approximate location outlined in red on the attached plan in Appendix A as a mixed use as a House in Multiple Occupation (HMO) and for short stay accommodation.
- 2) Make good any damage to the premises and remove all debris occurring from compliance with Step 1 above.

148. It is directed that the enforcement notice is varied in section 6 by the substitution of nine (9) months as the time for compliance.

149. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal ref APP/E5900/X/25/3369731

150. The appeal is dismissed.

Diane Lewis

INSPECTOR