



Appeal Decision

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2026

Appeal Ref: APP/Z4310/X/25/3376690

66 Lower Breck Road, Liverpool L6 4BZ

- 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 Mrs Roopy Takhar against the decision of Liverpool City Council.
 - The application ref 25LE/2583, dated 30 September 2025, was refused by notice dated 25 November 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 House in Multiple Occupation (HMO).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the existing use provided on the original application form was HMO six bedrooms. The appellant also stated on the application form and in submissions that one room would be made into a TV room such that there would be six bedrooms and six persons.
3. However, they clarified in an email dated 17 January 2026 that the application is for the use of the property as a seven-bedroom, seven person HMO. It is on this basis that I have determined the appeal.
4. The description in the banner heading above is an abbreviated version of that given on the appellant's appeal form, since that on the application form and used by the Council in their decision notice, refers to use as a six-bedroom HMO.
5. In reviewing the file, it appeared that the appeal could be determined without a site visit – without causing prejudice to any party. This is because the relevant date for determining whether the existing development is lawful, is the date of the application.

Main Issue

6. The main issue is whether the Council's refusal to issue an LDC was well-founded.

Reasons

7. In accordance with sections 191(4) and 192(2) of the 1990 Act, the relevant date for ascertaining whether the existing development is lawful is the date of the application. In an LDC appeal, the onus is on the appellant to make out their case to the standard of the balance of probabilities.

8. Issues of planning merit are not relevant. As such, that there have been no complaints from neighbours, the property is too large to be affordable to rent to a single family and the rooms are provided at a low cost, are matters which have no bearing on this appeal. Similarly, the character of the appellant, the maintenance record and standard of accommodation have no bearing on my decision.
9. Section 191(2) sets out that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason) and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
10. Article 3, Schedule 2, Part 3, Class L (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets out that development consisting of the change of use of a building falling within class C3 (dwellinghouse) of the schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO) to a use falling within class C4 (HMO) is permitted development.
11. The definition of a class C4 HMO in the UCO is the use of a dwellinghouse by not more than six residents as a “house in multiple occupation”. An HMO shared by more than that number of people, often referred to as a large HMO, is outside the scope of this use class, and is therefore a sui generis use.
12. Whilst there is no Article 4 Direction effecting those permitted development rights in the area of the appeal property; such rights do not apply to a large HMO. Since the use of the property in this case is as a large HMO, occupied by seven residents, the appellant cannot rely on permitted development rights.
13. However, there is no dispute that the use does not constitute a contravention of any of the requirements of any enforcement notice in force, therefore, if the time for enforcement action has expired the use would be lawful.
14. With respect to sub-paragraph (a) of section 191(2) the time for enforcement action would have expired if the use of the appeal premises as an HMO had subsisted on a substantially uninterrupted basis for a period of ten years or more prior to the date of the LDC application (section 171B(3)), not four years as referenced by the appellant. The four-year time limit applies to use as a single dwellinghouse, not to the use of a dwellinghouse as an HMO.
15. Having regard to the above, for the appeal to succeed the appellant would therefore need to demonstrate that the property has been used as a seven person HMO on a substantially uninterrupted basis for a period of not less than ten years prior to the date of the application.
16. As noted by the Council, the appellant’s submissions indicate and they stated that the property has been used as a seven-person HMO since October 2020 when the HMO license was issued.
17. Although there is reference to the property having been used as an HMO prior to the appellant’s ownership, and it seems the property previously held an HMO licence (2009–2010) and a Selective Licence (2017–2020), those licenses have not been provided. There is therefore no information as to the number of occupiers

allowed by each licence, nor details in respect of the nature of the occupation, in respect of the Selective License. In any case, such licences are not determinative of actual use, so they alone would not have assisted the appellant's case.

18. Based on the evidence before me, I find, as a matter of fact and degree, that the appellant has failed to provide sufficiently precise and unambiguous evidence to demonstrate, on the balance of probability, that the property has been in use as a seven person HMO for a substantially uninterrupted 10 year period prior to the date of the application.

Conclusion

19. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a House in Multiple Occupation (HMO) 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).

Felicity Thompson

INSPECTOR