
Appeal Decision

by **Grahame J Kean B.A. (Hons) Solicitor, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 April 2026

Appeal Ref: APP/J4423/X/25/3376038

147 Sharrow Vale Road, Sheffield, South Yorkshire, S11 8ZA

- 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 Dr Graham Hutchison against the decision of Sheffield City Council.
 - The application ref 25/02694/LU1, dated 19 September 2025, was refused by notice dated 12 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 use as a House in Multiple Occupation (Use Class C4).
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Decision

1. The appeal is dismissed.

Reasons

2. The main issue before me, taking account but ultimately irrespective, of the reasons given by the Council, is whether the refusal of the application is “well founded” under s195 (2) and (3) of the 1990 Act. The burden of proof lies with the appellant on the balance of probabilities.
3. The Council states that No 147 is a three bedroomed terraced house. Evidence in the submitted statements of account suggest there are 4 bedrooms, which the appellant states has been a rental property since 2004. He also states that the area became a designated Conservation Area in 2011, however this is not relevant to the appeal.
4. The Council did make an Article 4 Direction, in force on 10 December 2011, which covers certain areas of the city, including Sharrow Vale Road such that in these areas planning permission is required to change the use of a dwellinghouse (Use Class 3) to a house in multiple occupation (HMO) for 3 to 6 unrelated people (Use Class C4).
5. The direction was made in light of changes to the Use Classes Order (UCO) in 2010, which permitted a change from Use Class C3 to a 3-6 persons HMO (Use Class C4) without the need to seek planning permission. Thus, the onus is on the appellant to demonstrate on the balance of probability that the dwelling has been in continuous and active use as an HMO for at least 10 years preceding the application made in September 2025, ie since September 2015.
6. The planning merits of the use are not relevant to an appeal of this nature. Furthermore, if the Council has no evidence 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 evidence is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

7. The Council states that tenancy agreements/rent payment details are provided dating from 2005 as follows:
 - 2005-2009, 1 tenant
 - 2010-2015 no records
 - 2015-2017 4 tenants
 - 2018 2 tenants
 - 2019 4 tenants
 - 2020 2 tenants
 - 2021-2023 3 tenants
 - 2024-2025 1 tenant
8. It further concludes that the submitted information for 2018, 2020, 2024-25 indicates that there were fewer than 3 persons resident during these periods which suggests that the property was not in continuous use as a dwelling for 3-6 people (Use Class C4) over the required period (2015-2025). The Council's private rented HMO registration team has confirmed, which is not disputed, that the property has never been registered as an HMO.
9. The appellant states that from 2007 the property was rented through agents. Bank statements from 2007 – 2011 are submitted. Although they show income from the agents, they do not specify the property details, save for two statements which, although relating to the property in question do not contain details of the tenancies.
10. Accepting that it is likely the appellant has confused reference to a conservation area with the article 4 direction, I note that the latter was in effect in December 2011 and there is no persuasive evidence that the property had established use rights for an HMO before that date.
11. The appellant points out correctly, that there is some consistency in the named tenants for various years. Further, the Council's summary of the position is in my view misleading, where it identifies the years of 2018, 2020, 2024-25 as years where according to it, no evidence shows occupancy by three or more tenants.
12. On my analysis, specifically, in relation to 2018, the agent's statements of account suggest that for the months marked "y" (each ending on 26th) the following persons CI, S, B and then G, W, M and H paid rent:

<i>Date/tenant</i>	<i>CI</i>	<i>S</i>	<i>B</i>	
<i>Jan</i>	y	y		
<i>Feb</i>	y	y		
<i>Mar</i>	y	y		
<i>Apr</i>	y	y		
<i>May</i>	y	y	y	
<i>Jun</i>	y	y	y	

A deep clean of the property occurred on 22 June 2018. From July onwards the names against payments changed as follows:				
<i>Date/tenant</i>	<i>G</i>	<i>W</i>	<i>M</i>	<i>H</i>
<i>Jul</i>	<i>y</i>	<i>y</i>	<i>y</i>	<i>y</i>
<i>Aug</i>	<i>y</i>	<i>y</i>	<i>y</i>	<i>y</i>
<i>Sep</i>	<i>y</i>		<i>y</i>	
Statements for the remaining months of 2018 are missing.				

13. Thus, a clearer picture emerges of the property being occupied initially by only 2 persons until May 2018. For 2020 the agent's statements of account suggest that for each month (ending on 26th) the following persons C, R, E, W, and then K, H and H2 paid rent:

<i>Date/tenant</i>	<i>C</i>	<i>R</i>	<i>E</i>	<i>W</i>
<i>Jan</i>	<i>y</i>	<i>y</i>	<i>y</i>	<i>y</i>
<i>Feb</i>	<i>y</i>	<i>y</i>	<i>y</i>	<i>y</i>
<i>Mar</i>	<i>y</i>	<i>y</i>	<i>y</i>	<i>y</i>
<i>Apr</i>	<i>y</i>	<i>y</i>	<i>y</i>	<i>y</i>
<i>May</i>	<i>y</i>	<i>y</i>	<i>y</i>	<i>y</i>
<i>Jun</i>	<i>y</i>	<i>y</i>	<i>y</i>	<i>y</i>
<i>Jul</i>				
<i>Aug</i>				
Rental payments below were then recorded for each month (ending on 23 rd) for K, H and H(2)				
<i>Date/tenant</i>	<i>K</i>	<i>H</i>	<i>H(2)</i>	
<i>Sep</i>	<i>y</i>	<i>y</i>	<i>y</i>	
<i>Oct</i>	<i>y</i>	<i>y</i>	<i>y</i>	
<i>Nov</i>	<i>y</i>	<i>y</i>	<i>y</i>	
<i>Dec</i>	<i>y</i>	<i>y</i>	<i>y</i>	

14. The statements of account suggest that the property was emptied, cleaned and advertised "to let" in August 2020. That would explain the absence of rental payments noted above, during July/August.
15. For 2024 the statements of account suggest that for the first 6 months (each ending on 25th) 3 persons paid rent or that one person paid rent on behalf of the

other two named persons. This arrangement accounts for the Council's assertion that only 1 person occupied in this year. Tenants' names changed with a different "lead" tenant but remained at 3 persons throughout the second half of the year.

16. During 2025 the statements suggest that the tenants remained and paid rent (or rent was paid on their behalf by a lead tenant, as per the last half of 2024, for the months (ending on 25th thereof), for January, March and May. The next statement suggests a change of tenants with rent being paid (similarly to the previous arrangements) for the months ending September and October, both months relating to the same tenants. Statements for other months in 2025 are missing.
17. The appellant acknowledges that some statements are missing and states it has been difficult to locate them all. I have no reason to disbelieve him.
18. The Council did not provide a statement for this appeal but relied on its delegated report which only gave a summary conclusion for 2018, 2020, 2024-25 that there were fewer than 3 persons then resident. Without further elaboration and the analysis that I have undertaken as described above, the Council's conclusions were incomplete and misleading.
19. Therefore, I accept that it is likely that, for example during July/August 2020 the property had to be cleaned and was re-advertised, tenancies taken up and so forth, which in my view would not be significant enough to destroy the continuity of use. I also interpret the statements for 2024 and 2025 as indicating payment by a lead tenant, which seems patently more likely than the Council's assertion that only one person resided there.
20. That said, there are significant gaps in the statements in 2025. Further, there is no adequate explanation of why there appears to be no more than 2 persons occupying or paying rent in the first 4 months of 2018¹.
21. It is also pertinent that despite the property being, according to the appellant let on an assured short-term tenancy contract or contracts, no details thereof or copies are provided that might demonstrate occupation by the requisite number of persons and households throughout the relevant period under consideration.
22. I conclude from the foregoing that the appellant's evidence is insufficiently precise and unambiguous to demonstrate that the appeal property was in continuous use as an HMO for ten years prior to September 2015. Since the permitted development rights which allowed a change from Use Class C3 to C4 (HMO) were only effective from 1 October 2010 and not retrospectively, the subsequent change of use, after the article 4 Direction came into force on 10 December 2011, to an HMO would have required and still requires planning permission. No such permission has been granted and therefore the lawful use of the appeal site has not changed from a use within Use Class C3 (dwellinghouse).

Conclusion

23. 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 (Use Class C4) 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).

¹

Grahame J Kean

INSPECTOR