



Appeal Decision

Site visit made on 30 March 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 28 April 2026

Appeal Ref: APP/C2741/X/25/3359451

40 Milton Street, YORK, YO10 3EP

- 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 Miss Kim Wells against the decision of City of York Council.
 - The application ref 24/01079/CPU, dated 4 June 2024, was refused by a notice dated 20 December 2024.
 - 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 existing use as short-term holiday let.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application the subject of this appeal was made under s192 of the Town and Country Planning Act, 1990, as amended (the Act). However, it is clear from the evidence that the use of the property as a short-term holiday let commenced in 2023 and has thus already begun. The application therefore relates to an existing use, which falls under s191 of the Act. Both parties agree that there would be no injustice to either of them if I were to correct the application description and to determine the appeal on the basis that the lawful development certificate (LDC) is being sought for the *'existing use as a short-term holiday let.'*

Main Issue

3. Section 191(4) of the Act indicates that if, on an application under that section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matters described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application. The planning merits of the development are not relevant in this appeal, and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or development (LDC) was well founded.
4. It is established case law that the appellant's evidence does not need to be corroborated by 'independent' evidence for it to be accepted. In the event that there is no evidence to contradict the appellant's version of events, an LDC should be issued. However, the appellant's own evidence must be sufficiently precise and unambiguous to justify a grant of an LDC, on the balance of probability.

Reasons

5. There is no dispute between the main parties that the lawful use of the property is a Class C3 dwellinghouse. The issue is whether, on the balance of probability, the use of the property as a short-term holiday let is lawful. It is the local planning authority's view that the use constitutes a material change of use of the property.
6. The Town and Country Planning (Use Classes) Order 1987, as amended (UCO), sets out how dwellinghouses are defined for the purposes of the Order in Class C3. These are:

Use as a dwellinghouse (whether or not as a sole or main residence) by

 - (a) a single person or by people to be regarded as forming a single household;
 - (b) not more than six residents living together as a single household where care is provided for residents; or
 - (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).
7. It is established case law that the distinctive characteristics of a dwellinghouse is its ability to afford those who use it, the facilities required for day-to-day private domestic existence. It is also settled law that the limited use of a family home for holiday lettings would not necessarily be a material change of use of a dwellinghouse. The issue is whether, as a matter of fact and degree, there has been a material change of use of the Land such as would amount to development requiring planning permission¹. A main consideration is whether there has been a significant difference in the character of the activities from what has gone on previously.
8. The appeal property is a three bed, two-storey, terraced property. It has a small walled front garden and a yard with garage to the rear. It is situated in a predominantly residential area, located off the main arterial route from York to Hull (A1079) and just outside of York City Centre.
9. It is understood that the appellant has owned the property since 2021. She subsequently carried out renovations to it, and from 2023 has been letting it out commercially as a short term let. However, from the evidence available, I am unable to identify the characteristics of the former use/and or occupation of the property before its use as a short term let. I do not know if it was occupied by, for example, a single person, a family, or a group of friends living together. I do not therefore know what the character of the former use of the property was before the short-term lettings began. Moreover, I have not been provided with any details of the characteristics of the current use, for example, the size of the groups booking the property, type of group, nor how long the bookings are for, for example, a night, weekend or full weeks. The local planning authority refused the application because they considered that the occupants of a holiday let are transient and operate differently to homeowners who would naturally be part of the local community. However, I have not been provided with any evidence of the actual behaviour of the occupiers of the property, either before its use as a short-term holiday let or since that use began.

¹ In the terms of s55(1) of the 1990 Act.

10. Thus, from the evidence before me, I cannot identify the characteristics of the existing short-term holiday let with any precision. I am also mindful that, in the absence of any substantive evidence relating to who has occupied this property, I cannot conclude that it has been occupied by people or groups living together as single households, in accordance with Class C3 of the UCO.
11. For the reasons set out above, I find the appellant's evidence not to be sufficiently precise and unambiguous to show, on the balance of probability, that the existing use of the property as a short-term holiday let did not constitute development.

Other Matters

12. The Government has consulted on a proposal to amend the UCO to introduce a new Class C5, applicable to short-term lets. However, the necessary legislation to formalise that new suggested Use Class has not been progressed and is thus not a consideration for this appeal.

Conclusion

13. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a short-term holiday let 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).

Elizabeth Pleasant

INSPECTOR