



Appeal Decision

Site visit made on 20 April 2026

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date 07 May 2026

Appeal Ref: APP/V3120/X/24/3348862

29 Colley Wood, Kennington, Oxford OX1 5NF

- The appeal is made under section 195 of the Town and Country Planning Act 1990, as amended (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Tom Rourke against the decision of Vale of White Horse District Council.
- The application ref P24/V1157/LDP, dated 21 May 2024, was refused by notice dated 19 July 2024.
- The application was made under section 192(1)(a) of the Act.
- The use for which a certificate of lawful use or development is sought is '*change from an 8 person HMO to a 9 person HMO*'.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. The application form did not specify a proposed use. The proposed use in the banner heading above is taken from the Council's decision notice and was used by the appellant in the appeal form. This causes no prejudice or injustice to any party and I have determined the appeal on this basis.
2. No.29 Colley Wood is lawfully used with planning permission as an 8 person house in multiple occupation (8PHMO), a sui generis use¹. An appeal under section 78 of the Act was dismissed and planning permission refused for the proposed use of No.29 (then a dwellinghouse in Use Class C3) as a 9 person house in multiple occupation (9PHMO), also a sui generis use².
3. The LDC application was made to ascertain whether the proposed use of No.29 as a 9PHMO would have been lawful if begun at the time of the application (the relevant date). It is essentially the same proposal as in the previous 9PHMO appeal but from the baseline of planning permission granted for the 8PHMO. Though an application for planning permission for a 9PHMO was made and refused, the appellant is able to pursue a LDC for a 9PHMO and is a different assessment.

Main Issue

4. The main issue is whether the Council's decision to refuse the application for a LDC was well-founded.

Reasons

5. For the appeal to succeed, the onus is on the appellant to demonstrate, on the balance of probabilities, that the proposed use of No.29 as a 9PHMO was not a material change of use, thus not development that required planning permission under sections 55(1) and 57(1) of the Act.

¹ P22/V1129/FUL

² APP/V3120/W/21/3285789

6. Relevant caselaw has established it does not automatically follow that, in this case, use of No.29 as a 9PHMO would result in a material change of use from an 8PHMO. If there is no definable change in the character of a use, having regard to relevant on or off-site considerations, it will not amount to a material change of use or development that requires planning permission. This is a matter of fact and degree, not merely about intensification of some or all of a use, with the proposed use to be compared with the lawful existing use.
7. Aside from car parking, the Council advanced no other on or off-site consideration. There is little objective evidence to suggest otherwise. In granting planning permission for the 8PHMO (after the previous 9PHMO appeal) the Council assessed that 4 on-plot car parking spaces were required and could be provided, with no unacceptable off-site overspill parking or highway safety impact.
8. The 9PHMO would be achieved by using a room in No.29 as another bedroom. The main parties agree that this internal repurposing would not be development or require planning permission. Also, that provided this bedroom was occupied by a single tenant (and despite the description of development) there would be no conflict with condition No.7 of the 8PHMO planning permission – *‘each bedroom in the development hereby permitted shall be let to one person only and there shall be no double occupancy’* (it limits how many people can occupy bedrooms in No.29, not the number of bedrooms). I have no reason to differ in these regards.
9. The current parking standards highlight the propensity of HMOs to give rise to an increase in parking³. For HMOs where indiscriminate on-street parking is likely to occur, 0.5 on-plot spaces per bedroom need to be provided. This still equates to 5 on-plot spaces (rounded up) for a 9PHMO, the same as in the previous 9PHMO appeal which also established that practicably, only 4 useable on-plot spaces can be achieved at No.29.
10. I saw that the plot at No.29 abuts much of one side of a relatively narrow, short turning area located at the end of a spur of Colley Wood cul-de-sac. Other houses with drives around it have an open plan arrangement of front gardens. The turning area was at the time free from parked cars, with one car on-plot at No.29 and some on-street parking spaces available nearby (with no parking or waiting restrictions). However, there is little to suggest that this snapshot is representative, particularly when the on-plot parking at No.29 is full or all the residents are at home, some of whom are likely to park in the street.
11. Evidence in the previous 9PHMO appeal included photographs and the Inspector’s site visit. His decision sets out that this turning area *‘is prone to becoming congested, owing to the extent of on-street parking’* such that *‘any additional parking pressure within this section of the road could conceivably exacerbate these congestion issues’* and a shortfall of 1 on-plot space posing *‘a clear risk of cars being displaced on to the surrounding road network for parking’*. Furthermore, *‘irrespective of the availability of [nearby] spaces’*, it was *‘likely that occupiers (and visitors) would seek to park their vehicles as close to the appeal property as possible’* and *‘most likely be within or near to the adjacent turning area’*. Then, that *‘were this to occur, the existing congestion issues within this section of the cul-de-sac would be exacerbated, making turning and manoeuvring even more difficult. In turn, this would risk conflict between vehicles, cyclists and/or pedestrians, which*

³ Paragraphs 7.5 and 7.6 – ‘Parking Standards for New Development’, Oxfordshire County Council (submitted with the Council’s final comments)

would be to the detriment of highway safety'. These circumstances are still borne out by comments and photographs submitted in this LDC appeal from occupiers of houses around the turning area and near it or elsewhere in Colley Wood.

12. I accept that a 9PHMO would not be a totally or fundamentally different use from an 8PHMO at No.29. But the relevant change arising from the proposed 9PHMO is the consequence of 1 required additional on-plot car parking space (not 0.5 spaces, which is the per bedroom multiplier used for the underlying calculation). There is little evidence to counter the previous 9PHMO appeal findings on car parking and highway safety or to suggest circumstances at No.29, in the turning area or in Colley Wood are different now, with similar indiscriminate on-street parking.
13. The nearby houses are in close proximity to No.29, the turning area and nearby on-street parking. These residents have a largely unobstructed outlook and heightened awareness with regard to parking. I consider that an additional car would likely actually be noticed and experienced as something distinctly different or be perceived as such, including extra inconvenience, obstruction or interference with parking, manoeuvring or access such as also for deliveries or collections and safe travel by walking, cycling or car. Albeit in a small way, these circumstances would undermine the local living environment and erode normal expectations for the enjoyment of these houses by those who live in them now or in the future.
14. Though off-site, and by a small quantitative level of intensification, as a matter of fact and degree, the change by reason of car parking and commensurate highway safety would result in a significant difference in the definable character of No.29 as a 9PHMO compared to its use as an 8PHMO. The appellant has therefore not demonstrated, on the balance of probabilities, that the proposed use of No.29 as a 9PHMO would not be a material change of use and not development that required planning permission under sections 55(1) and 57(1) of the Act. Consequently, the proposed use would not have been lawful for this reason at the relevant date and an LDC in these terms cannot be granted.

Other Matters

15. That No.29 was a family home is not relevant to my decision. Nor is alleged non-compliance with the 8PHMO planning permission, HMO licensing requirements or the Highway Code. It is also not my remit to re-visit the basis for the earlier decisions taken by the Council.

Conclusion

16. For the reasons given above, and on the evidence now available, I am satisfied that the Council's decision to refuse to grant a lawful development certificate for *'change from an 8 person HMO to a 9 person HMO'* was well-founded. Accordingly, the appeal fails and I will exercise the powers transferred to me under section 195(3) of the Act.

Formal Decision

17. The appeal is dismissed.

Robin Buchanan
INSPECTOR