



Appeal Decision

Site visit made on 27 April 2026

by **Paul T Hocking BA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 May 2026

Appeal Ref: APP/Z1775/X/24/3339406

10 Landport Terrace, Portsmouth PO1 2RG

- 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 Joshim Ahmed of The Other Property Ltd against the decision of Portsmouth City Council.
 - The application ref 23/00787/CPL, dated 22 June 2023, was refused by notice dated 25 August 2023.
 - The application was made under section 192(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: Proposed use as a dwelling occupied by 4 unrelated adults within Class C3 (dwellinghouse).
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Summary of Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's refusal to grant a certificate of lawfulness is well founded.

Reasons

3. The site relates to a terraced dwelling in an area the subject of an Article 4 Direction which precludes an otherwise permitted change of use from use class C3 (being that of a dwellinghouse) to use class C4 (being that of a house in multiple occupation).
4. The proposed use is described by the appellant in the following way: '*...the dwelling is currently occupied by a single tenant, having previously been leased to a family. Both the owner and the tenant would prefer for the underused bedrooms to be occupied, and leased to additional occupants. These would most likely be to 3 additional students or professional people, each of whom would have their own bedroom within the property, but also full access to the communal parts of the building...*' (the proposal).
5. In matters such as this, the onus is firmly on the appellant to demonstrate their case on the balance of probabilities that the proposal would be a use falling within use class C3(c) (being a dwellinghouse of not more than six residents living together as a single household where no care is provided to residents) and therefore planning permission would not be required. My assessment is therefore very fact specific, based upon the evidence before me.

6. The Planning Practice Guidance (the Guidance) sets out that an appellant is responsible for providing sufficient information to support an application for a Lawful Development Certificate. The Guidance says: *'In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.'* Those sentiments apply equally to an Inspector at appeal stage.
7. The proposal however amounts to a generic description for the use of a property and one which might ordinarily fall within use class C4 sharing basic amenities. Given the appellant is however endeavouring to demonstrate on the balance of probabilities that the proposal falls within use class C3(c), there is a distinct lack of precision and clarity concerning how the occupants would live together as a single household.
8. Whilst the proposed occupants might use the same access, be expected to share facilities in the same way a family might, and a single metre for utilities would remain, this does little to demonstrate that the four occupants, who are yet to be identified, would live together as a single household. I am also highly sceptical that there would be a single household budget for communal items or how this is proposed to operate and endure. That s258 of the Housing Act does not apply to use class C3(c) also does little to assist the appellant.
9. The principal caselaw¹ relied upon by the appellant then pre-dates the introduction of use classes C3(c) and C4 and so is only of limited assistance in demonstrating the appellant's case. There is, for example, limited evidence as to how intimate, integrated or cohesive the occupancy is likely to be. There is also very little evidence to demonstrate on the balance of probabilities that the proposal would amount to some form of community home.
10. The appellant also provides an extract² and asserts this clarifies that students or other young people sharing a dwellinghouse will normally be a single household. Whether or not the assertion is correct, the proposal actually relates to an existing tenant being joined by an additional 3 students or professional people and where there is then very little evidence that they would live together as a single household or for example have a common need for accommodation or friendship prior to occupying the property.
11. Given the very limited evidence pertaining to the unrelated and as yet unidentified adults who would occupy the property, as a matter of fact and degree the appellant has also provided very little evidence to demonstrate on the balance of probabilities that the proposal would not amount to a material change of use of the property from a use class C3 dwellinghouse. There is accordingly very little to demonstrate that the proposal would be akin to a family with either 2, 3 or 4 teenage children in terms of the character of the use of the property. In such a scenario, the children would also not have genuinely private bedrooms, as opposed simply being regarded as private, such that they strictly could not be accessed by other occupiers.

¹ R (oao Hossack) v Kettering BC & English Churches Housing Group [2002] EWCA Civ 886

² Encyclopedia of Planning Law

12. As a matter of fact and degree the appellant has therefore not discharged the necessary burden of proof to demonstrate their case on the balance of probabilities.

Conclusion

13. For the reasons given above I conclude that the Council's decision was 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.

Formal Decision

14. The appeal is dismissed.

Paul T Hocking

INSPECTOR