



Appeal Decision

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by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2026

Appeal Ref: APP/N4720/X/25/3367663

2 Quarry Place, Woodhouse, Leeds, LS6 2JT

- 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 Phil Pappenheim against the decision of Leeds City Council.
 - The application ref 25/00534/CLE, dated 24 January 2025, was refused by notice dated 25 March 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 (C4 use).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that planning merits are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority. The burden of proof in respect of LDC applications made under section 191 of the Act lies with the applicant and the relevant test of the evidence is on the balance of probability.
3. The Planning Practice Guidance states if a local planning authority has no evidence itself, nor any from others, 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 applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether on the date of the LDC application the appeal property was lawfully a house in multiple occupation (HMO) falling within class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO).

Reasons

5. The appellant's claim is that the property has been used as a class C4 HMO since 6 November 2013 and up to the date of the LDC application, i.e., 24 January 2025. Class C4 of the UCO defines an HMO in accordance with its meaning in section

254 of the Housing Act 2004. Given schedule 14(7) of the Housing Act 2004, a property is not an HMO if it is occupied by two persons who form two households. While the appellant's statutory declaration makes the claim that the use commenced on 6 November 2013, his submitted tenancy agreements show that up to 2015 there were only ever two tenants occupying the property.

6. The onus is on the appellant to submit precise and unambiguous evidence in respect of occupation. The tenancy agreements cast sufficient doubt about the appellant's claim that the property was occupied by more than two tenants between 2013 and 2015. The appellant asserts, in his statutory declaration, that *'some tenancies have subsequently become contracted periodic tenancies at the conclusion of the fixed tenancy period, in accordance with clause 2 of the Residential Landlords Association Assured Shorthold Tenancy Agreement which has been signed by all tenants'*. This claim is not supported with precise and unambiguous evidence.
7. The appellant states that *'the property was full in many years and tenancies were rolled on'* referring to the above Residential Landlords Association Assured Shorthold Tenancy Agreement, but this claim is not suitably substantiated with precise evidence such as, for example, statutory declarations from individual tenants and/or visitors to the property, dated utility bills, Council tax invoices/statements, dated and itemised bank statements, or other dated correspondence, all of which would may have indicated actual occupation over period of time.
8. I have considered the appellant's submitted tenancy agreements and, in my judgement, they suggest some gaps in occupation between January 2019 to June 2019, June 2020 to February 2021, and October 2021 to July 2022. While as part of the appeal, the appellant states that the period of non-occupation between October 2021 and July 2022 was due to the Covid-19 Pandemic, this does not account for the other material gaps from a tenancy agreement point of view. In my judgement, these other gaps cast doubt about the ten years continuous use claim being made by the appellant. The gaps are sufficiently long for me to conclude that it is more likely than not that any claimed ten-year period of use would have been broken and hence the immunity clock would have started again.
9. The appellant has submitted a licence in respect of the use of the property by up to 5 persons aged ten years and over. This is dated March 2024. A licence does not in itself demonstrate actual use as an HMO. While it is more likely than not to indicate that there was an intention to use the property as an HMO, the licence is dated March 2024 and, given the other evidence submitted by the appellant, it does not in my view provide suitable precision from the point of view of proving, on the balance of probability, that the property has been in continuous use as an HMO for ten years, and particularly prior to March 2024.
10. The appellant has submitted a spreadsheet which purports to demonstrate continuous use of the property as an HMO for more than ten years. Put simply, this is simply a spreadsheet of alleged income, utility and repair payments and without any precise/objective evidence to support what is outlined. Without precise and unambiguous evidence to support what is outlined in the spreadsheet, I am unable to conclude that this on its own, or in combination with the appellant's other evidence, is sufficient, on the balance of probability, to demonstrate that property

has been continuously used as a class C4 HMO for a period of least ten years and prior to the date of the LDC application.

11. For the above reasons, I conclude that on the date of the LDC application the property was not lawfully a C4 HMO in respect of section 171B of the Act. The appellant has referred to other LDC appeal decisions. There is no evidence to suggest that the other LDC appeals are identical to the subject appeal. I have determined this appeal on the evidence that is before me. The other appeal decisions do not alter or outweigh my conclusion in respect of this appeal.

Conclusion

12. 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 (C4 use) 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).

D Hartley

INSPECTOR