



Appeal Decision

Site visit made on 25 April 2026

by A U Ghafoor BSc (Hons) MA MRTPI FCI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 26 May 2026

Appeal ref: APP/M5450/X/24/3348970

93 Headstone Road Harrow HA1 1PG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended ("the Act")) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
- The appeal is made by Mr Qasim Gulamhusein on behalf of 93 HAI Limited against the Council of the London Borough of Harrow.
- The application Ref PL/0885/24 is dated 27 March 2024.
- The application was made under section 191(1)(b) of the Act.
- The existing operation for which a certificate of lawful use or development is sought is described in the application as follows: confirmation of lawfulness the existing internal configuration of C4 Small HMO.
- An application for costs is made by the appellant against the Council and is at the end of this Decision.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful development describing the existing operation which is found to be lawful.

Preliminary Matters

2. Firstly, it is necessary to understand the purpose of a s191 LDC application. The Act explains that if any person wishes to ascertain whether (a) any existing use of buildings or other land is lawful or (b) any operations which have been carried out are lawful, they may make an application for the purpose to the LPA specifying the land and describing the use, operations or other matter. As the Planning Practice Guidance (PPG) explains an application needs to describe precisely what is being applied for and the land to which the application relates. Without sufficient or precise information, a local planning authority (LPA) may be justified in refusing a certificate. The LPA may choose to issue a LDC for a different description from that applied for, as an alternative to refusing a certificate altogether.
3. The LDC submission to the Council has created some confusion. It appears to me confusion starts with the application form because in the section "Reason for Lawful Development Certificate" the applicant ticked the box "...An existing use, building work or activity in breach of a condition" and describes the existing use as Class C4 to the Town and Country Planning (Use Class) Order 1987 as amended (UCO), which covers homes in multiple occupation (HMO). In the section "description of Existing Use, Building Works or Activity," the appellant states "Confirmation of lawfulness the existing internal configuration of C4 Small HMO".
4. The LDC application statement and plans, which were submitted in March 2024, all indicate a certificate is sought for existing operational development. The application form also confirms the latter by stating that the internal changes do not constitute development requiring planning

permission. The voluminous appeal statement and supporting documentation confirm that understanding.

5. In the March 2024 statement, the applicant states the following: “The application seeks confirmation that the internal changes that have been made to the existing C4 Small HMO and that are now extant are lawful and did not require planning consent”. Furthermore, in section 3 – Grounds for the LDC – the agent is clear as to what existing operations are the subject of the LDC application:

“...The current configuration of the building at 93 Headstone Road is shown on the floor plans submitted as part of this application. In summary: the ground floor comprises a storage room at the front of the building and 2 bedrooms located in the middle and at the rear of the building. There is also a communal kitchen located between the middle and rear rooms. The rear bedroom has direct access on to a small private amenity space which is fenced off from the communal garden. The communal garden is accessed from the side alleyway...

...On the first floor there are 3 bedrooms.

...On the 2nd floor there is a bedroom and a second communal kitchen”.

6. It seems the Council was distracted by the current use of the property having visited the site to assess the application as they discovered a different internal layout. They say the room labelled as storage was unoccupied, but it had a fitted kitchen unit and ensuite bathroom with toilet facilities. Officers gained access to other rooms and found 4 were self-contained given the available facilities for separate cooking, washing and sleeping. They say that the communal kitchen was only used by the occupier of room 2 as this was the only room without the fitted kitchen. The communal kitchen on the first floor was not in use, and all cupboards were empty during their inspection. In addition to this, officers found letter boxes and separate meters labelled flats 1 to 7.
7. The Council say that the LDC should be refused based on the current layout of the building, which is probably characteristic of a hybrid residential use falling between a mix of HMO and self-contained flats. Had it determined the application in a timely manner, it would have refused to grant the certificate on that basis. For the following reasons, I do not agree with the Council's approach to this application.
8. The plans submitted with the LDC application do not show any individual rooms fitted with kitchen, although they do show ensuite bathrooms. They show a communal kitchen on the ground and second floors. The LDC application made to the Council, now before me, focus on the lawfulness or otherwise of the existing building work as illustrated in drawings dated July 2023. The package does not extend to cover the existing or current use of the building. That being the case, the scope of the LDC appeal falls within s191(1)(b), which is consistent with the appellant's arguments and application form.
9. The appeal can be decided purely based on technical and/or legal interpretation of the facts. All the information needed is included with the application and appeal documents and so a decision can be reached on the papers. I will proceed on this basis, and it is unnecessary to seek agreement as the parties have covered everything that needs to be addressed.

Reasons

10. The main consideration is whether, at the date of the LDC application, the building operations which have been carried out as illustrated on the submitted plans are lawful: the latter has a specific meaning in planning. In short, yes and here is why.
11. Amongst other things, “development” includes the carrying out of building or other operations¹. The words “building operations” are also defined in s55(1A) of the Act. The appellant’s agent places too much emphasis on the application of permitted development rights in the GPDO² but those provisions encompass development like the enlargement, improvement or alterations of a dwellinghouse. The courts have held that a UCO Class C4 HMO benefits from permitted development rights³.
12. To my mind, of direct relevance is s55(2) sub (a)(i)(ii) of the Act⁴ and that excludes from the definition of development works for the maintenance, improvement, or other alteration of any building which affect only the interior of the building.
13. No. 93 was originally a single dwellinghouse. The appellant acquired the property in 2021 and began to carry out total refurbishment. The work included the construction of a single-storey rear extension granted planning permission and the conversion of the loft into additional habitable space, which was subject to a s192(1) application. The property was then used as a UCO Class C4 HMO pursuant to article 3, schedule 2, part 3 Class L to the GPDO.
14. Looking at the evidence in the round, the work can reasonably be described as other operations normally undertaken by a person carrying on business as a builder. They did result in the reconfiguration of the property as shown on the LDC application plan labelled “floor plans” and dated 13 July 2023. Given the effect and scope of this s191(1)(b) application, I find that, as a matter of fact and degree, the work falls within scope of the internal work exemption and thus do not amount to development requiring planning permission.
15. For the avoidance of any doubt, my findings relate only to the existing building work and internal configuration of C4 Small HMO. As I have said elsewhere, the current layout and use include some rooms with separate cooking facilities the lawfulness of which falls outside the scope of this LDC application. As the notes to the LDC clearly state, that is a separate matter for the appeal parties to consider.

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 27 March 2024 the matter described in the First Schedule hereto, constituting confirmation of lawfulness of building operations resulting in the internal configuration of C4 Small HMO, in respect of the land specified in the Second Schedule hereto

¹ Section 55(1) of the Act.

² Article 3, schedule 2, part 1, class A to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO).

³ *London Borough of Brent v Secretary of State for Levelling Up, Housing and Communities and Yehuda Rothchild* [2022] EWHC 2051 (Admin).

⁴ Section 55(2)(a) of the Act which states: The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land— (a) the carrying out for the maintenance, improvement or other alteration of any building of works which— (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building.

and edged on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The building operations resulting in the internal configuration of C4 Small HMO, as shown on drawing described as Floor Plans dated 13 July 2023, fall within the scope of the exemption to development set out in s55(2)(a)(i)(ii) of the Act and do not constitute a contravention of any enforcement notice in force.

Signed

A U Ghafoor

INSPECTOR

Date: **26 May 2026**

Reference: APP/M5450/X/24/3348970

First Schedule

Building operations resulting in the internal configuration of C4 Small HMO, as shown on the site plan edged and drawing described as Floor Plans dated 13 July 2023 (attached to this certificate).

Second Schedule

Land edged as shown on the plan attached to this certificate and identified as no. 93 Headstone Road Harrow HA1 1PG.

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191(1)(b) of the Act. It certifies that the existing operations described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the Act, on that date. This certificate applies only to the extent of the existing operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation or use which is materially different from that described, including a layout that materially differs from the plans submitted with the LDC application and certified by the grant of the LDC, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the LPA.

Plan

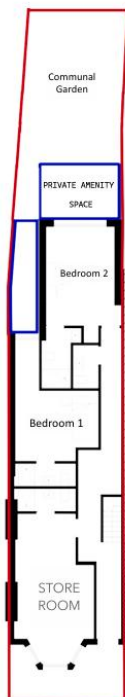
This is the plan referred to in the Lawful Development Certificate dated: **26 May 2026**

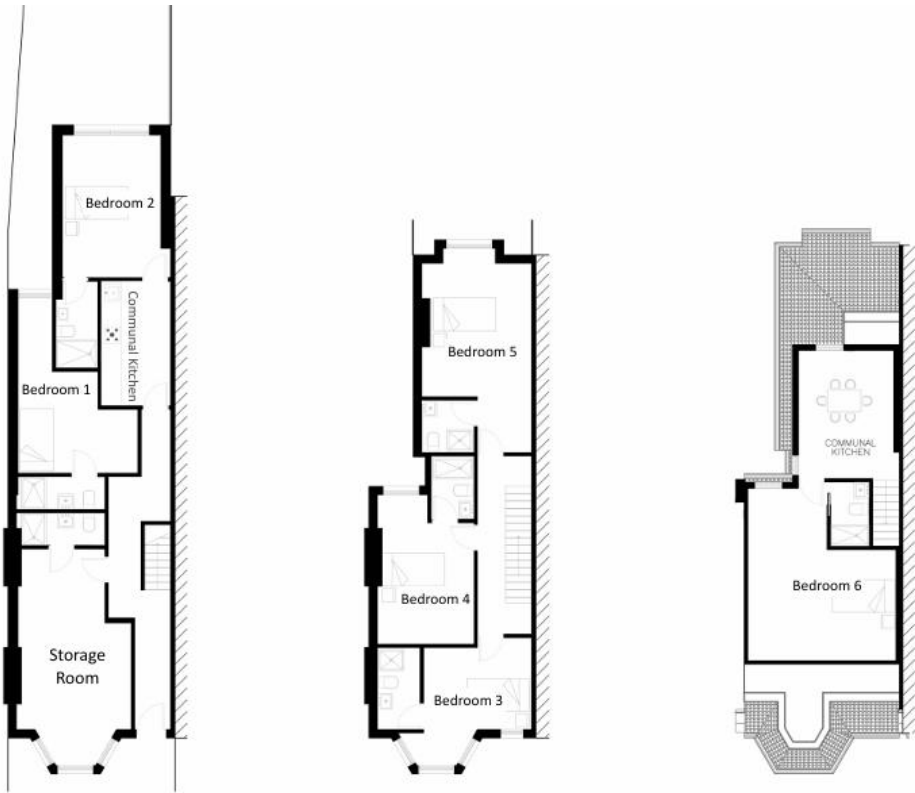
by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

Land at: **93 Headstone Road Harrow HA1 1PG**

Reference: **APP/M5450/X/24/3348970**

Scale: Do not scale.





PURPOSE OF ISSUE	DATE OF ISSUE	PROJECT	ADRESS	LAYOUT TITLE	DATE	SCALE	SCALE BAR
PLANNING	13/07/2023	EXTENSION AND REFURBISHMENT	93 HEADSTONE ROAD, HARROW	FLOOR PLANS	JULY, 2023	1:100	0 1 2 3

Costs application

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Qasim Gulamhusein on behalf of 93 HAI Limited for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was in connection with an appeal against the failure to determine a certificate for existing building operations involved in the creation of the existing internal configuration of C4 Small HMO.
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Decisions

1. The application for an award of costs is refused.

Reasons

2. The PPG advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant takes a scattergun approach, and I will summarise the key points advanced in support of their application. They allege that the respondent's failure to determine the LDC application is unreasonable causing an appeal. It is unclear as to the reasons why the application was delayed. In any event, usual practice is to seek an extension of time to determine an application. If an extension is not agreed, there is a right of appeal. That is what the applicant has exercised, and it matters not if the respondent was forewarned. In addition, concerns about handling the application process or other enforcement related issues are not determinative of unreasonable behaviour in these proceedings. It should, however, be kept in mind that the purpose of this application process is not to resolve by investigation every allegation of unreasonable behaviour. Rather it is to decide if an award of costs in respect of the appeal is justified on the available evidence in a particular case.
4. Taking my Decision as a whole, I explain why the appeal is allowed on a narrow point – s191(1)(b) – existing operations. Clearly, there are other matters the Council will need to consider given the current layout and arrangement of some of the rooms. However, for reasons I have set out above, I have found favour with the appellant's case insofar it is limited to operational development.
5. When determining LDC applications, the planning history of a site can be relevant consideration as is the layout of a site at the date of the application. Contrary to the agent's submissions, I consider that the respondent submitted sufficient evidence to substantiate why it would have refused the grant of an LDC albeit it also misunderstood the basis for the LDC application. Nonetheless, the respondent did not procedurally fail nor misapply legal principles. However, the matters raised required an exercise of planning judgment having regard to relevant judicial authorities.
6. Acting contrary to, or not following, well-established case law can amount to unreasonable behaviour, but at appeal stage, the respondent addressed relevant issues raised in this appeal and substantiated its reasons for recommending a refusal of the LDC application. Based on the evidence before me, given the absence of an agreed extension of time, I am not persuaded that an appeal was totally avoidable. The submissions indicate to me that there has been a total breakdown of communication between the appeal parties: that is a matter for them to consider.
7. As I have already found elsewhere, the applicant's evidence did lift the burden because sufficient evidence has been submitted to demonstrate that the existing operations are lawful at the date of the LDC. Irrespective of how much weight the respondent applied to the

applicant's evidence, the issues raised in the LDC application and on appeal required independent assessment.

8. I have carefully considered this application but come to an inescapable conclusion. The respondent's lack of clarity and its approach have not resulted in a totally unavoidable appeal given the matters in dispute between the appeal parties. I find that the perceived unreasonable behaviour did not, on this occasion, result in unnecessary or wasted expense as described in the PPG. It has not been demonstrated that an award of costs, full or partial, is justified in the circumstances.

A U Ghafoor

INSPECTOR