Appeal Decision

Site visit made on 14 April 2026

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2026

Appeal Ref: APP/Z4310/X/25/3368347
24 Taunton Street, Liverpool L15 4ND

- 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 Silkstone Property Investments Ltd against the decision of Liverpool City Council.
- The application ref 25LE/0790, dated 21 March 2025, was refused by notice dated 22 May 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 'an existing HMO Property'.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the banner heading above, I have used the description given in the application form. The Council determined the application on the basis that it was an application for a Certificate of Existing Lawful Development for House of Multiple Occupation for 3-6 persons (Use Class C4). It is clear from the appellant's submissions that this is what it is seeking a certificate for and so I shall consider the appeal on this basis.

Main Issue

3. The main issue is whether the Council's refusal to grant a lawful development certificate (LDC) is well-founded.

Reasons

4. Section 191(1)(a) of the Act provides that if any person wishes to ascertain whether any existing use of buildings or other land is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter. Section 191(2)(a) and (b) sets out that uses and operations are lawful at any time if: i) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.

5. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law. In an application for a LDC, the onus is on the applicant to demonstrate on the balance of probabilities that the development was lawful. An appellant's evidence should not be rejected simply because it is not corroborated.

If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

6. Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO) permits development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation)(HMO) of that Schedule. An Article 4 Direction came into force in the area on 17 June 2021 which removed permitted development rights for the change of use from a Use Class C3 dwellinghouse to a Use Class C4 HMO.

7. As the removal of permitted development rights is not retrospective, C3 dwellinghouses that were changed to a C4 HMO prior to the Article 4 Direction coming into force would not be affected by it and would remain lawful unless a subsequent material change of use occurred. The main thrust of the appellant's case is that the material change of use to a C4 HMO occurred before the Article 4 Direction came into force and that there has been no subsequent material change of use.

8. A Use Class C4 HMO is 'use of a dwellinghouse by not more than six residents as a "house in multiple occupation". For the purposes of Class C4, a "house in multiple occupation" does not include a converted block of flats to which section 257 of the Housing Act 2004 applies, but otherwise has the same meaning as in section 254 of the 2004 Act. Class C4 is intended to cover small shared dwellinghouses occupied by between three and six unrelated individuals who share basic amenities. A building occupied by fewer than three persons falls outside the definition of an HMO by virtue of Schedule 14 of the Housing Act 2004 (as amended). How the premises has actually been used is therefore of importance.

9. The appellant states that the appeal property has been occupied as a small HMO since 20 December 2012. The Director of Silkstone Property Investments Limited states that the company granted a lease to Priority Properties (North West) Limited for a term expiring on 30 September 2019 and renewed this lease for a further term from 1 October 2019, with an expiry date of 31 December 2029. The individual states that Priority Properties (North West) Limited is a subsidiary company of Serco plc and that the terms of the lease cannot be reproduced or disclosed due to a non-disclosure agreement.

10. They go on to advise that the property has been let and used and occupied for these purposes (a 5 bedroomed House in Multiple Occupation property configured to accommodate 5 unrelated individuals living as 5 single households) continuously at all times since 20 December 2012 with the rent paid in full. While the statement is signed and witnessed, this is inconsistent with the date provided on the application form, which identifies the date the use or activity was begun as 8 July 2016 (section 10 of the application form). Furthermore, it is not clear what the individual's day-to-day involvement with the property was, such that they would know what the level of occupation was at any one time.

11. I have been provided with a copy of a document stating that the Home Office has formally awarded contracts to Serco in this area. A sworn affidavit from the Head

of Portfolio Management at Serco confirms that the appeal property has been used continuously as a house in Multiple Occupation since 8 July 2016 and before the inception of Article 4 on the 17 June 2021.

12. However, it is not clear what involvement the individual would have had in the day to day running of the appeal premises and therefore what their knowledge would have been of the number of individuals occupying the premises at any one time. Serco is identified as being awarded contracts in both the North West and Midlands and East of England. This is a significant area, with potentially a significant number of properties, though no details are provided in this regard. It seems unlikely the Head of Portfolio Management for the company would know the precise level of occupation of each of their properties.

13. An HMO Certificate was issued on 14 March 2019. The appellant advises that in 2019 the Housing Section of the City Council inspected the property for the purpose of issuing the Certificate. It is suggested that in licensing the property as an HMO, officers would have been required to visit the premises and confirm the actual occupancy at that time. While the HMO licence points towards the property being occupied as an HMO at the time it was inspected, I have not been provided with detailed notes of the inspection and so it is not clear what the inspecting officer saw or the basis upon which they issued the Certificate. Moreover, it does not show how the property was occupied between the inspection of the property and the Article 4 Direction coming into force.

14. A letter from the appellant's accountants has been provided, which confirms the payment of rent in relation to the appeal site, which is referred to as an HMO property. Within the letter it is stated that the rents due under the contract have been paid in full in respect of the accounting years 2016-2017 through to 2023-2024. However, the terms of the contract are not clear and so I do not know whether full rent would be paid whether the property is occupied by one or five individuals (or even if it was vacant). I understand that it is not possible for the appellant to disclose details of the contract due to a non-disclosure agreement, however, this limits the weight I afford the letter in this regard.

15. It seems unlikely, due to its layout, that the property has been occupied by more than six individuals, and therefore would not have been a *sui generis* HMO. However, it is not clear from the evidence whether (or when) it has been occupied by between 3 and 6 unrelated individuals. Although it may not be possible to disclose details of the lease, I see no reason why information could not be provided regarding the number of occupants, even if the names of individuals are redacted, so that it is clear how many individuals occupied the property and when.

16. The appellant suggests that the Council has been inconsistent in its decision making and has drawn my attention to a certificate which was issued in respect of a property at Boaler Street, Liverpool. In support of that case, declarations were also made by the director of Silkstone Property Investment Ltd and Serco's Head of Portfolio Management. From the details provided in the Officer Report, the evidence submitted in support of that application seems similar to evidence submitted in support of this appeal (though I have not been provided with full details of the submissions made in that case).

17. While the Officer recommended a certificate be granted in respect of the Boaler Street property, I must consider this appeal on the basis of the facts and the law

and am not bound by that decision. Furthermore, I find the similarity in the date provided Silkstone Property Investment Ltd to be unusual. Both statements appear to suggest that the property has been let and occupied as an HMO since 20 December 2012. It seems unlikely to me that all occupants of both HMOs would have moved into the respective properties on the same date. It seems more likely this date reflects when the properties were purchased or made available, rather than when they were actually occupied.

18. The appellant has also drawn my attention to appeal decision APP/Z4310/X/24/3350573, which concerned an application for an LDC for a HMO at Grant Avenue, Liverpool. While I note the Inspector in that case found the evidence demonstrated that the use of the property had become lawful prior to the Article 4 Direction coming into force, this was based upon the facts before the Inspector, which are particular to how that property has been used.

19. Having regard to the evidence as a whole, for the reasons given above, I find that the appellant has not shown, with evidence which is sufficiently precise and unambiguous, that the material change of use to a C4 HMO occurred before the Article 4 Direction came into force or that, if it did (occur before the Article 4 Direction came into force), there has been no subsequent material change of use. It has not, therefore, been shown, on the balance of probabilities, that the use of the property as a Class C4 HMO was lawful at the date of the LDC application and the appeal must fail.

Conclusion

20. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for an existing HMO property 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).

M Savage

INSPECTOR