

Appeal Decision

Site visit made on 7 May 2026

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 11th June 2026

Appeal Ref: APP/Y5420/X/24/3355766
Flat B, 45 Duckett Road, Hornsey, London N4 1BJ

- The appeal is made by Chris Jackson under section 195 of the Town and Country Planning Act 1990 against a refusal by Haringey Council to grant a lawful development certificate.
 - The application Ref: HGY/2024/2395, dated 28 August 2024, was refused by notice dated 25 October 2024.
 - The application was made under section 191(1)(a).
 - The development for which the certificate is sought is "existing use as dwellinghouse within Use Class C3(c)".
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use relating to the existing use described in the certificate, which I consider was lawful at the time of the application.

Reasons for the decision

2. 45 Duckett Road is divided into two flats, which are separate apart from sharing the front entrance and hallway. The flats were granted a certificate of lawfulness in 1999 and were extended and altered with planning permission in 2017. Flat A occupies the upper floors. Flat B consists of the ground floor, the extended basement and the rear garden; its accommodation includes a large living room/dining room, a kitchen, a utility room, a bathroom and bedrooms.
 3. The appellant's application for a lawful development certificate for the existing use of Flat B as a dwellinghouse within Use Class C3(c) was refused by the Council for the following reason: -

"From the documentation and evidence provided, the Local Planning Authority is not satisfied that, on the balance of probabilities, the use of Flat B 45 Duckett Road, Hornsey, N4 1BJ falls within Use Class C3 Dwellinghouses and is used as a C4 House in Multiple Occupation within an Article 4 Direction (that removes permitted development rights for the conversion of a dwellinghouse to an HMO (Use Class C4)) so planning permission is required. Therefore, the use sought is not considered to be lawful."
 4. Class C3(c) is use as a dwellinghouse (whether or not as a sole or main residence) by not more than six residents living together as a single household
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where no care is provided to residents (other than a use within Class C4). Class C4 is use of a dwellinghouse by not more than six residents as a "house in multiple occupation". Except in circumstances that do not arise in this appeal, for the purposes of Class C4 a "house in multiple occupation" has the same meaning as in section 254 of the Housing Act 2004.

5. Section 254 defines when a building or part of a building is a "house in multiple occupation". Flat B is a self-contained flat that is part of the building, 45 Duckett Road. It is therefore a "house in multiple occupation", as defined in section 254(1)(b) if it meets the conditions in section 254(3) ("the self-contained flat test"). These conditions are:

"(3) A part of a building meets the self-contained flat test if—

- (a) it consists of a self-contained flat; and
- (b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat)."

Paragraphs (b) to (f) are as follows:

"(b) the living accommodation is occupied by persons who do not form a single household (see section 258);

(c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);

(d) their occupation of the living accommodation constitutes the only use of that accommodation;

(e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and

(f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities."

Section 258 sets out when persons are to be regarded as not forming a single household for the purposes of section 254. It states that persons are to be regarded as not forming a single household unless they are all members of the same family (or in certain other circumstances that do not arise in this appeal).

6. Flat B is occupied by four unrelated persons who live together. It is their only or main residence, the flat is only used as their living accommodation, they pay rent jointly and they share all the amenities of the flat. They would ordinarily be understood in everyday language to be a single household, but because of the provisions of section 258 they are treated by housing law as not forming a single household and therefore constituting separate households sharing the basic amenities of the flat.
7. It follows that the use of the flat is within C4; it cannot therefore be within C3(c) because of the exclusion of C4 uses from C3(c) by the words "(other than a use within Class C4)", which were introduced by an amendment to C3(c) in 2010. It would nevertheless normally be permitted development to change

from C3(c) to C4, but the right to do so has been removed by the Article 4 Direction referred to by the Council in their decision.

8. However, the Use Classes Order is not interpreted so as to mean that a change between one use class and another is necessarily development requiring planning permission. The key issue is whether the change amounts to a 'material change of use'. This term is not defined in planning law; it is a question to be determined in each case as a matter of fact and degree, and in this appeal requires a comparison to be made between the previous use and the existing use of the flat. For a material change of use to have occurred, there must be a significant difference in the character of the activities that took place previously and the activities that are taking place now.
9. Following the site visit, I invited the parties' comments on this matter as it had not been covered in their written representations. I have taken into account the comments received from the appellant; none were received from the Council.
10. The previous use of the flat was a family dwellinghouse. No details of its previous occupiers are available but, as a four-bedroom dwelling with a large living and dining area, ample kitchen, bathroom and utility room facilities and a good-sized garden, it provided suitable accommodation for a sizeable family.
11. The current occupiers are a group of friends who, when they had to relocate to London where they had all obtained employment, decided to live together in the flat as a group with a communal mode of living. They are jointly responsible for the whole of the flat and its garden under a joint tenancy from the landlord. The bedrooms are not lockable. The flat's cleaner is employed jointly. Food is bought and prepared collectively for the household and not on an individual basis. The garden is maintained by the whole of the group and barbecues are hosted there together. There is no indication that the current living arrangements have led to a material alteration in the character and appearance of the flat or to its facilities, or to more noise or a greater demand for car parking space than can have been expected to occur if the previous use of the flat by a family had continued.
12. In these circumstances I do not consider, as a matter of fact and degree, that a material change of use has taken place. The Council's decision to refuse the application for a certificate of lawful use is not well founded, because the existing use is not unlawful and planning permission is not required for it. Accordingly, the appeal has been allowed and an appropriate certificate has been granted.

D.A.Hainsworth

INSPECTOR



Certificate of Lawful Use

APPEAL REFERENCE APP/Y5420/X/24/3355766
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39 & SCHEDULE 8

IT IS CERTIFIED that on 28 August 2024 the use described in the First Schedule to this certificate in respect of the building specified in the Second Schedule to this certificate and shown edged and hatched in black on the plan attached to this certificate was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990, for the following reason:

The use did not involve development because it did not amount to the making of a material change of use within the meaning of section 55(1) of the Town and Country planning Act 1990.

D.A.Hainsworth

INSPECTOR

Dated: 11th June 2026

First Schedule

The use of the building as a dwellinghouse occupied by four unrelated persons living together as one household.

Second Schedule

Flat B, 45 Duckett Road, Hornsey, London N4 1BJ

Notes

1. This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990.
2. It certifies that the use described in the First Schedule taking place in the building specified in the Second Schedule was lawful on the specified date and, therefore, was not liable to enforcement action under Part VII of the 1990 Act on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the building specified in the Second Schedule and identified on the attached plan. Any use that is materially different from that described or which relates to any other land may render the owner or occupier liable to enforcement action.



Plan attached to Certificate of Lawful Use

Flat B, 45 Duckett Road, Hornsey, London N4 1BJ

Appeal reference: APP/Y5420/X/24/3355766

This is the plan attached to the Certificate of Lawful Use
dated: 11th June 2026

D.A.Hainsworth

Inspector

