



Appeal Decision

Site visit made on 1 June 2026

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2026

Appeal Ref: APP/Z4310/X/25/3373790

102 Thornycroft Road, Liverpool L15 0EW

- 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 Brett Fidge on behalf of Guaranteed Liverpool Lets Ltd against the decision of Liverpool City Council.
 - The application ref 25LE/1023, dated 10 April 2025, was refused by notice dated 20 June 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 C4 Use Class HMO.
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Decision

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

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

3. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Town and Country Planning Act 1990 (the Act) if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous.
4. A Direction made under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015 applies to the area in which the appeal property is located. The Direction came into force on the 17 June 2021 and removes the permitted development rights conferred by Schedule 2, Part 3, Class L(b), ie the change of use of a building from a use falling within Class C3(dwellinghouses) to a use falling within Class C4(houses in multiple occupation).

5. Given the above, the question is whether the use of the property materially changed to a C4 Use Class house in multiple occupation (HMO) after the Class L(b) permitted development rights came into force, but prior to the date on which the Article 4 Direction came into effect (17 June 2021) and therefore had the benefit of planning permission. If so, a further question is whether that lawful use was subsequently lost.
6. In support of the appeal the appellant has provided copies of Assured Shorthold Tenancy Agreements (ASTAs) covering the periods of September 2016 to July 2017, July 2019 to June 2020, and July 2020 to June 2021. The latter of these three ASTAs is unsigned; however, bank statements indicate rent payments were made by individuals named in that agreement. In addition, the Council confirms that HMO licenses were granted that covered the period of 21 April 2018 to 22 April 2026.
7. In light of the above, I find that, on the balance of probabilities, the use of the appeal property materially changed to a C4 Use Class HMO prior to the Article 4 Direction coming into effect. The planning permission granted by Class L(b) would have crystallised at the point when the use of the building as a C4 HMO commenced. Accordingly, at the time the Article 4 Direction took effect, the lawful use of the appeal property was a C4 HMO. The question is then whether the lawful C4 HMO use was lost through abandonment or a material change in the use of the property occurred at some point between the planning permission being crystallised and the date of the LDC application. There is no argument made that the use has been abandoned.
8. As the established lawful use is a C4 HMO, the appellant does not need to demonstrate that the property was in continuous occupation for it to remain in a C4 HMO use. The evidence dated post-17 June 2021 includes copies of ASTAs and bank statements. Some of the ASTAs are unsigned or missing and there are some missing bank statements to corroborate some of the ASTAs. Whilst parts of this evidence are incomplete, there is no substantive evidence to indicate that a material change of use occurred.
9. The Council refer me to a previous appeal decision¹. However, that appeal concerned a large, sui generis HMO for which the Article 4 Direction was not relevant. Therefore, the circumstances are significantly different to the appeal before me.
10. I find therefore, the evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, the use of the appeal property changed to a C4 Use Class house in multiple occupation after Schedule 2, Part 3, Class L(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 came into force, but before the Article 4 Direction came into effect. The use then continued up to the date of the LDC application. The use of the appeal property as a C4 HMO is therefore lawful.

Conclusion

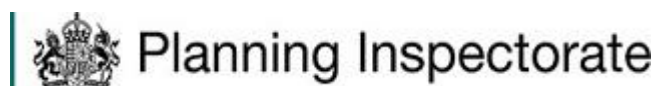
11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is not well-founded and that the appeal should

¹ Appeal Decision APP/Z4310/X/24/3343903

succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 10 April 2025 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 (as amended), for the following reason:

The evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, the use of the appeal property changed to a C4 Use Class house in multiple occupation after Schedule 2, Part 3, Class L(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 came into force, but before the Article 4 Direction came into effect. The use then continued up to the date of the LDC application.

Signed

A Walker

Inspector

Date: 30 June 2026

Reference: APP/Z4310/X/25/3373790

First Schedule

A C4 Use Class HMO

Second Schedule

102 Thornycroft Road, Liverpool L15 0EW

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in this decision dated: 30 June 2026

by A Walker

Land at: 102 Thornycroft Road, Liverpool L15 0EW

Reference: APP/Z4310/X/25/3373790

Scale: Not to Scale

