



Appeal Decision

Site visit made on 9 June 2026

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 06 July 2026

Appeal Ref: APP/L5240/X/24/3352221

19 Cameron Road, CROYDON, CR0 2SR

- 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 Omnia SPV LLP against the decision of the Council of the London Borough of Croydon.
- The application ref 24/00991/LE, dated 19 March 2024, was refused by notice dated 14 May 2024.
- 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 'Lawful (existing) use for a House in Multiple Occupation (HMO) for 6 occupants'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the site visit, not all rooms at the property were accessed for inspection. However, in view of the nature of the appeal, available evidence and my site observations, I am satisfied that I can properly assess the appeal and neither party expressed any objection to this approach at the site visit.

Main Issue

3. The main issue is whether the LPA's decision to refuse to grant a lawful development certificate (LDC) was well-founded.
4. The burden of proof is on the appellant to make their case on the balance of probabilities. The onus is then firmly on the appellant to show that the use would have been lawful as at the date of the LDC application. The appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted; if the LPA 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 the appellant's evidence alone is sufficiently precise and unambiguous.

Reasons

5. Section 191(2) of the 1990 Act¹ states that uses and operations are lawful at any time if (a) no enforcement action may then 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

¹ Town and Country Planning Act 1990

- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
6. The appellant contends that the small HMO use is immune on the basis of either or both of the following:
- i. the change to a Class C4 small HMO occurred prior to the coming into force of an Article 4 Direction on 28 January 2020, which removed Class L permitted development (PD) rights² permitting a change of use from a Class C3 dwellinghouse to a small HMO, and use as a small HMO was not supplanted by a subsequent material change of use (MCU)
 - ii. the change to a small HMO is immune from enforcement action on the basis that it took place more than ten years before the date of the LDC application and continued without significant interruption thereafter³. The relevant date for these purposes is 19 March 2014 and again it needs to be shown the use was not later supplanted by a further MCU.
7. The appeal property is referenced in the decision notice as a seven bedroom property based upon the 'existing' floor plans submitted with the LDC application. As at the date of my site visit, it appeared that the number of bedrooms had been increased, possibly during recent renovations. My determination is in any event in respect of lawfulness as at the date of the application, and based upon the application documents submitted.
8. The appellant's contention is that use as a small HMO began around late 2012/early 2013. A statutory declaration from Ishad Ali (IA) states that he leased the property to Nadeem Shamshad (NS) around 2012/2013 who then sublet rooms to tenants. It is explained that IA was made aware of the subletting by the Council around late 2016/early 2017, with a HMO licence having been put in place, and that a decision was taken to sell the property, with the last of NS's tenants vacating in March 2023. While due significant weight as sworn evidence, IA's statutory declaration offers no detailed information as to the number of people in occupation over the course of the subletting, nor as to whether there were any significant breaks in occupation. Zoopla details from 2010 and 2012 also confirm the property as a 5 bedroom house listed for rent at these times, correlating with the statement of the property being let to NS.
9. A statutory declaration from Sabu Sreedharan who has lived at 17 Cameron Road since July 2013, confirms since that time, the appeal property has 'not been occupied by just a single household at any given point' and has been 'rented out as individual rooms for well over 10 years'. Again though, there is no clarity given as to the number of tenants in occupation over the course of the period referred to, or whether there were any periods of vacancy.
10. The third statutory declaration submitted is given by Mohammed Asif Moin Uddin as a former tenant of the appeal property from December 2020 to around March 2023. MU states that he had two friends who were living at the appeal property since December 2019. An oral arrangement was made for MU to share a room with these friends, splitting the rent between them. It is indicated that tenants' rent

² Schedule 2, Part 3 Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015

³ Per s171B of the 1990 Act a change of use (other than where that took place on or after 25 April 2024) will be immune following expiration of a period of ten years starting with the date of the breach

was paid in cash and tenancy agreements were not issued. It is confirmed that during MU's occupation, the property was 'individually let on a room to room basis' and was 'similarly used' from MU's friends' occupation in 2019. MU states also that 'there were at least 6 people living there that were not related during the period of tenancy'.

11. Once again, there is no information in MU's statutory declaration as to the continuity of use. Further, while MU gives some indication as to the number of occupants, the reference to 'at least' six people, along with detail regarding his own room arrangements points towards a likelihood that the occupation was as a sui generis large HMO use rather than a Class C4 small HMO use.
12. Evidence is submitted which is indicative of some form of HMO use prior to the Article 4 Direction coming into force. This includes a Fire Risk Assessment dated February 2017 which references HMO use but relates to assessment only of the kitchen and common areas, so is not good evidence as to whether the number of occupants fell within the small HMO limit. An email on behalf of Shahida Ali and IA dated September 2017 references that the appeal property was being sublet for cash. I accept that this would explain the lack of tenancy agreements submitted in evidence to cover this period but again this does not offer good evidence of the number of occupants such as to point towards a small HMO use.
13. A notice that the Council was considering taking enforcement action dated 21 October 2016 under s11 Housing Act 2004 also is indicative of a HMO use but does not give any indication as to whether the actual use was as a small HMO rather than a large HMO sui generis use. The same is true of the 2 March 2017 s239 Notice, licensing documentation dated October 2017 and the SAR⁴ Disclosure documentation; there is plainly reference to HMO use, but equally it would appear that there were potentially seven bedrooms available for use around this time. Electoral roll information and 192.com data similarly evidences use by likely unrelated individuals and very likely as a HMO, but does not corroborate use for six or fewer people or that use was continuous throughout the relevant period.
14. The appellant also adduces other evidence referencing HMO use after the date of the Article 4 direction including a company let tenancy agreement dated April 2023 made between IA and Omnia Housing Ltd permitting subletting; a letter from Apollo housing as managing agent confirming HMO use since 2023; letter from the Council dated July 2023 confirming a HMO licence for a maximum of six people and that the seventh bedroom was uninhabitable at this time; AST agreements for rooms 1 and 2 dated 5 May 2023 and letter from the managing agent confirming letting of room 4 since the same date. These again render a HMO use since around 2023 probable, and that the seventh bedroom was considered uninhabitable at this time. However, there is a lack of detailed information such as to provide precision as to either the continuity of the use over this period and whether this included any significant periods of vacancy.
15. I acknowledge the appellant's comment that the LPA offer no evidence as to the use of the premises before the Article 4 Direction came into force and that there is evidence of a licence for a small HMO in place at that time. However, the appellant's own evidence includes a sworn statement from a former tenant that their room accommodated three individuals and I consider it highly improbable than the

⁴ Subject Access Request

former landlord would have ensured other rooms were vacant when this one accommodated three tenants in order to meet with the small HMO six person limit.

16. In my view, indications of poor management and safety concerns do also increase the likelihood of an overcrowded property, and so potentially a large HMO use, to at least some degree. There is therefore ambiguity as to whether the use was as a small HMO prior to the Article 4 Direction and indeed, even if there was a small HMO use at some stage before 28 January 2020, it is unclear whether a change to a large HMO occurred subsequently.
17. The LPA also, I note, has no evidence of its own as to the use over the claimed ten year period. However, this does not overcome the fact that the appellant's evidence is significantly lacking in precision as to both the nature of the use i.e. whether use was as a large or small HMO and as to the continuity of the occupation over the claimed period.
18. The appellant references other LPA decisions and submits that LDCs were granted in these cases based on less substantial evidence than has been submitted in this appeal. However, these cases are very fact sensitive and it is plain that in this case both the LPA and I have given weight to evidence which calls into question whether the number of tenants occupying the appeal property has been in excess of the Class C4 maximum.
19. I acknowledge comments that in the appeal decision cited⁵ the Inspector noted that while there were gaps in evidence submitted, this could be taken as a whole and afforded significant weight particularly given that the LPA could not produce counterevidence. However, as outlined, here the LPA has pointed to indications in the appellant's own evidence potentially inconsistent with the claimed use and the cases can therefore be distinguished on this basis.
20. On the available evidence, while it is likely that the use of the appeal property changed from a C3 dwelling to a HMO use, it has not been demonstrated on the balance of probabilities either that:
 - i. the change was to a small HMO such that it would have benefitted from the Class L PD right as opposed to a sui generis large HMO, or that any change to a small HMO was not supplanted by a subsequent MCU
 - ii. the claimed small HMO use took place more than ten years before the date of the application and continued thereafter without significant interruption and without being supplanted by a further MCU

Conclusion

21. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for 'Lawful (existing) use for a House in Multiple Occupation (HMO) for 6 occupants' 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).

V Bond

INSPECTOR

⁵ Ref: APP/L5240/X/23/3321787