



Appeal Decision

Site visit made on 1 June 2026

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2026

Appeal Ref: APP/Z4310/X/25/3373059

7 Norwich Road, Liverpool L15 9HL

- 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 Mark Cromby against the decision of Liverpool City Council.
 - The application ref 25LE/1449, dated 4 June 2025, was refused by notice dated 30 July 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 Sui Generis HMO Use for no more than nine occupants.
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Decision

1. The appeal is dismissed.

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. For the use to be lawful through the passage of time, the appellant must show that the material change of use of the property to a HMO took place more than 10 years prior to the date of the LDC application and continued for at least 10 years prior to the date of the application, as set out in s.171B(3) of the Act. Therefore, if the appeal property was continually in that use for a ten-year period prior to 4 June 2025, it would subsequently be lawful.
5. A use could only become lawful if it continued throughout the relevant immunity period, to the extent that the Council could have taken enforcement action at any time. If the use ceased during that period, as a matter of fact and degree, the time

could not count towards immunity. This is a different position to where there is an existing lawful use which could be unoccupied for lengthy periods without losing its lawful use.

6. The statutory declaration of the appellant states that they purchased the appeal property in 2005. At the time, it comprised a four-bedroom flat upstairs and a two-bedroom flat downstairs. In 2011, renovations to the upstairs flat took place, which included a loft conversion, to provide an additional 3 bedrooms, resulting in a seven-bedroom unit upstairs. The downstairs remained as a two-bedroom flat. The appellant confirms that in 2015 the property was modified to become a nine-bedroom HMO and has continued to be in such a use since, without any breaks.
7. At the point the downstairs flat and upstairs HMO became a single HMO, there was, on the evidence before me, likely to have been a material change in the use of the property and a new planning chapter in the use of the property would have commenced.
8. Although the statutory declaration states the HMO use of the whole property commenced in 2015, it does not state when in 2015 this was. The LDC application is more precise, stating the use commenced on 1 March 2015. In support of this, the appellant relies on an HMO licence issued in January 2014, which came into force November 2013. However, this related to 'Flat 2, 7 Norwich Road' and was for no more than seven people. Therefore, it did not relate to the use of the entire appeal property. Rather, the evidence indicates that at that time the property comprised a seven-bedroom HMO in the upper flat and a separate two-bedroom residential flat on the ground floor. The 2013 licence remained in effect for three years.
9. The next HMO licence granted came into effect in February 2018. This licence related to '7 Norwich Road' and was for no more than nine people, indicating that it was for the entire appeal property for up to nine people.
10. The appellant contends that because the entire property had nine bedrooms in 2013 (seven upstairs and two in the downstairs flat), this equates to the property being in use as a nine-bedroom HMO since November 2013, when the first HMO licence came into effect. However, this clearly contradicts the statutory declaration, which states 'In 2015, the property was modified to become a single nine-bedroom HMO'. Therefore, the evidence suggests that up until 2015, the downstairs two-bedroom flat was occupied as a single residential unit separate to the upstairs HMO.
11. The appellant also contends that the HMO licence conditions place various responsibilities on the licence holder, including numerous inspections. The inspections must ensure the property is not being occupied other than in accordance with the number of occupants in the licence. The appellant states that there is no evidence to suggest that the property operated otherwise than in accordance with the HMO licences in force between 2013 and 2025.
12. Consequently, if the licences were complied with as claimed, the evidence indicates that only Flat 2 was authorised and occupied as a seven-person HMO during the period covered by the 2013 licence. That position is inconsistent both with the appellant's statement of case that the entire property operated as a sui generis HMO from 2013 and with the statutory declaration that the single nine-bedroom HMO was not created until 2015.

13. I find therefore, the evidence before me is not sufficiently precise and unambiguous to demonstrate that, on the balance of probabilities, the material change of use of the property to a sui generis HMO for no more than nine occupants took place in excess of 10 years prior to the LDC application. As there is no evidence before me that planning permission has been granted for the use of the appeal property for a sui generis HMO for no more than nine occupants at the time the LDC application was made, the use is unlawful.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development 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.

A Walker

INSPECTOR