



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/25/3371679

18 Cameron Street, Liverpool L7 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 Miss Dixie Mays on behalf of MyTenantRent.co.uk LTD against the decision of Liverpool City Council.
 - The application ref 25LE/1554, dated 5 June 2025, was refused by notice dated 18 August 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 3 to 4 bed HMO.
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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 their 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 Class C4 HMO before the Article 4 Direction took effect on 17 June

2021, such that the change of use benefited from planning permission under Class L(b) of the GPDO. If so, a further question is whether that lawful use was subsequently lost.

6. Copies of Assured Shorthold Tenancy Agreements (ASTAs) indicate that bedrooms within the appeal property were rented out on an individual basis. Between October 2017 and June 2021, the ASTAs suggest that the occupancy of the property fluctuated between 1 and 4 tenants at any one time, with no tenants between July 2019 and February 2020.
7. The appellant has also provided details of their accounts that show rental payments for the property, including for individual bedrooms. Considered alongside the ASTAs, these indicate that the property was occupied by 3 to 4 tenants between July 2018 and October 2019.
8. There was no HMO licence for the property covering this period. However, such a license is not a requirement for an HMO of this size.
9. In light of the above, I find that, on the balance of probabilities, the use of the appeal property materially changed to a C4 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. Based on the evidence before me, I find that this occurred by July 2018.
10. 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 subsequently lost through abandonment or a material change of use at some point between the planning permission being crystallised and the date of the LDC application.
11. In accordance with the Town and Country Planning (Use Classes) Order 1987 and Housing Act 2004, a C4 HMO comprises 3-6 occupants. Any building which is occupied only by two persons who form two households is not an HMO. Between October 2019 and August 2021, the property was only occupied by one or two tenants at any one time, with the exception of two months between September and October 2020 when it was occupied by three.
12. I acknowledge that such properties may go through periods of underoccupancy. However, in this instance, the property was only occupied by two persons for a period of almost two years, with only a small break of two months when it was occupied by three. The appellant contends that the property has been consistently advertised as an HMO with individual rooms. However, there is no evidence of the marketing of the rooms before me. I consider that this sustained period of occupation by no more than two persons was of sufficient duration to amount to a material change of use from a C4 HMO to a C3 dwellinghouse. Accordingly, I find that the lawful C4 HMO use was lost. Although the occupancy levels went back up to four persons in September 2021, this was after the Article 4 direction came into effect and therefore it no longer benefitted from permitted development rights.
13. As less than 10 years had elapsed between the re-establishment of the C4 HMO use in September 2021 and the date of the LDC application, the use is not immune from enforcement action and is therefore unlawful.

14. I therefore find that, although the evidence demonstrates that the property lawfully changed to a C4 HMO by July 2018 under Class L(b) of the GPDO, that lawful use was subsequently lost through a material change of use to a C3 dwellinghouse by August 2021. The later reversion to C4 use by September 2021 occurred after the Article 4 Direction had come into force and did not benefit from permitted development rights. As no planning permission has been granted for that use, and as the use has not become immune from enforcement action, the use was unlawful at the date of the LDC application.

Conclusion

15. 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