



Appeal Decision

Site visit made on 13 June 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMi fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 13th July 2026

Appeal ref: APP/H5960/X/26/3377536

126 Flat Ground to Second Floor A, Lower Richmond Road London SW15 1LN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended ("the Act")) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Floyd Barnes on behalf of Living London Ltd against the Council of the London Borough of Wandsworth.
- The application ref 2025/4159, dated 14 November 2025, was refused by notice dated 14 January 2026.
- The application was made under section 191(1)(a) of the Act.
- The existing use for which a certificate of lawful use or development is sought is described in the decision notice as follows: Lawful use Certificate to confirm existing use of the property as an HMO (Class C4)¹.
- An application for costs is made by the appellant against the Council and is the subject of a separate Decision.

Decision

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

Preliminary matters

2. The reason for refusal states the local planning authority ("the LPA") is not satisfied the existing use was subsisting during a period of 10-years prior to the date of the application for the LDC. In April 2026, The Planning Inspectorate's case officer received an e-mail stating the LPA withdrew from the appeal, due to a misunderstanding of the appeal site's existing layout. I proceed.

Reasons

3. Starting with the relevant unit of occupation, the property comprises residential accommodation at basement, ground to second floor. The LDC application relates to no. 126A and refers to the ground, first and second floors and are identified as floor 1, 2 and 3 on submitted plans. The appellant seeks a declaration that the existing use as a small home in multiple occupation (HMO) is lawful. Essentially, uses are lawful at any time if no enforcement action may then be taken in respect of them and they do not constitute a contravention of any of the requirements of any enforcement notice then in force. The latter does not apply in this case.
4. Contrary to the Council's arguments, the case is not based on immunity nor promulgated on the basis permitted development rights² apply. The appellant seeks a declaration the existing HMO use is characteristic of a use falling within Class C4 of the schedule to the Town and Country Planning (Use Class) Order 1987 as amended (UCO).

¹ I've adopted this description for clarity's sake given the application form's description is too long and does not sufficiently describe the existing use.

² Article 3, schedule 1, part 3 to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). Class L Development consisting of a change of use of a building— (a) from a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule; (b) from a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, to a use falling within Class C4 (houses in multiple occupation) of that Schedule.

5. No. 126A has a ground floor kitchen, living room leading to rear garden, utility rooms and a family room which was unoccupied at the time of my site visit. The upper floors are accessed via a central staircase. Each level accommodates bedrooms and separate washrooms: the rear bedrooms include washrooms. None of the bedroom doors are fitted with locks nor do they contain cooking facilities. The evidence is that occupiers share the main kitchen and living room at ground floor level.
6. The submitted floorplans are consistent with the layout as I saw it. In my judgment, the configuration and layout are characteristic of a dwellinghouse and no. 126A contains necessary facilities for day-to-day domestic existence. In planning jargon, the ground to second floors satisfies the *Gravesham*³ test. There is nothing before me to cast doubt over the appellant's claims that no. 126A is occupied and used as a small HMO falling in Class C4, which is characterised as use of a dwellinghouse by not more than 6 residents. Unsurprisingly, a building in use as a C4 HMO may be a dwellinghouse in *Gravesham* terms.
7. The agent makes much of the High Court's judgment in *Brent LBC v SSLUHC & Rothchild* [2022] EWHC 2051 (Admin), but that judgment is not on all-fours with the facts of this case. Nor does the appellant claim any operational development under permitted development rights. In *Rothschild*, the Court, amongst other things, found the Inspector did not err in concluding that a Class C4 HMO would benefit from permitted development rights pertaining to development within the curtilage of a dwellinghouse as set out under Part 1 of Schedule 2 to the GPDO because a building in use as a Class C4 HMO is described as a dwellinghouse. The judgment confirms small HMOs can benefit from permitted development rights.
8. Pulling all the above threads together, as a matter of fact and degree, the evidence presented clearly shows to me that the existing use of the appeal property is characteristic of a small HMO, which falls within UCO Class C4 and the onus has been discharged.

Conclusion

9. For the avoidance of any doubt, the LDC certifies that the existing use described was lawful on the certified date and was not liable to enforcement action on that date. This certificate applies only to the extent of the existing use described and any use which is materially different from that described may result in a breach of planning control which is liable to enforcement action by the LPA.
10. For the reasons given above and having considered all other matters raised, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of existing use of the property as an HMO (Class C4) was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the Act as amended.

A U Ghafoor

INSPECTOR

³ See the case of *Gravesham BC v SSE and O'Brien*, [1983] JPL 306.

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990:
SECTION 192
(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 14 November 2025 the matter described in the First Schedule hereto, constituting the existing use of the property as an HMO (Class C4), in respect of the land specified in the Second Schedule hereto and edged 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 reasons: no enforcement action may then be taken in respect of the existing use as HMO (Class C4) because the use as such does not require planning permission and does not constitute a contravention of any of the requirements of any enforcement notice then in force.

Signed

A U Ghafoor

INSPECTOR

Date: 13th July 2026

Reference: APP/H5960/X/26/3377536

First Schedule

Existing use of the property as an HMO (Class C4).

Second Schedule

Land edged as shown on the plan attached to this certificate and identified as Floor 1, 2 and 3, 126 Flat Ground to Second Floor A, Lower Richmond Road London SW15 1LN.

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Act. It certifies that the existing use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the Act, on that date. This certificate applies only to the extent of the existing use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation or use 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 LPA.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 13th July 2026

by A U Ghafoor BSc (Hons) MA MRTPI FCI fCMgr

Land at: 126 Flat Ground to Second Floor A, Lower Richmond Road London SW15 1LN

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Scale: Do not scale.

