Planning Inspectorate

Appeal Decision

Site Visit made on 1 July 2026

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2026

Appeal Ref: APP/N4720/X/25/3376009
58 Melville Place, Woodhouse, Leeds LS6 2LZ

- 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 Chris Ross against the decision of Leeds City Council (the LPA).
- The application ref 25/05386/CLE, dated 12 September 2025, was refused by notice dated 12 November 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 described as “the house has been used as an HMO continuously since 2005”.

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.

Preliminary Matters

2. The description of development in the heading above is taken from the application form. The LPA’s decision notice describes the development as, “the use of the property as a small House in Multiple Occupation (C4 use).” I find that a more accurate representation of the development for which an LDC is sought and have therefore determined the appeal on that basis.

Main Issue

3. The main issue is whether the LPA’s decision to refuse the LDC application was well-founded.

Reasons

4. Section 191(2) of the Act sets out that uses 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 (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

5. Class C4 houses in multiple occupation (HMOs) did not exist within the Town and Country Planning (Use Classes) Order 1987 (the UCO) prior to 6 April 2010. Even if it had, the question as to whether a material change of use to a small house HMO had occurred would be a matter of fact and degree, having regard to whether there had been a significant change in the character of the activities before the change and after.

6. Thereafter, on 1 October 2010 the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) was amended to introduce a permitted development right for changes of use between dwellinghouses (C3) and small HMOs (C4). Thus, if the use had begun between 1 October 2010 and 10 February 2012, it would have benefited from planning permission granted by Article 3(1) of the GPDO.

7. On 10 February 2012, the LPA introduced an Article 4 Direction which had the effect of removing those permitted development rights. Had the use thus occurred after 10 February 2012, it would have constituted a breach of planning control on the basis that it constituted development without planning permission.

8. The appellant submits in their statement that they purchased the property in July 2001 and since that date it has been let continuously to student tenants as a small house in multiple occupation. However, the application form states that house has been continuously used as an HMO since 2005. There are therefore conflicting statements from the appellant as to when the use commenced.

9. Nevertheless, both pre-date the introduction of the permitted development right introduced on 1 October 2010. The GPDO does not confer permission granted by Article 3(1) retrospectively. Moreover, there is no substantive or documentary evidence which supports the use of the property as an HMO prior to 17 April 2008 (the date of the first tenancy agreement) such that the appellant is able to demonstrate 10 years continuous breach from 2001 or 2005.

10. Nonetheless, if the property was in use as a C4 small HMO for any ten-year period subsequent to 10 February 2012, then it could have accrued lawfulness through immunity from enforcement action as it would have amounted to a breach of planning control, provided it was continuous for the relevant ten-year period such that the LPA could have taken enforcement action at any time.

11. A floor plan is provided which shows the property divided up with four bedrooms. The basement level bedroom has an en-suite whilst there is a bathroom on the first floor along with a bedroom and two bedrooms on the second floor along with a bathroom. The ground floor of the property has a single open plan kitchen lounge. There is no evidence that each of the bedrooms contained all the facilities necessary for day-to-day living, such that they would be self-contained flats at any point during the relevant period. Likewise, as I will set out, the evidence point towards the people occupying the property doing so as separate households. The combination of the evidence before me suggests that it is more likely than not that the occupants shared some basic facilities such as the kitchen and bathrooms.

12. The appellant states that between 10 February 2012 and 30 June 2012, the property was occupied by four people sharing the house, each unrelated to one another and all in full-time education. An Assured Shorthold Tenancy Agreement (AST) is provided which is dated 9 May 2011. The AST is between the appellant and four people and signed by all. It specifies that it relates to the occupation of the appeal property to be used solely as a private residence and place of study for the tenants. The AST is for the period 1 July 2011 to 30 June 2012. Each person party to the AST is addressed separately, and separate rent amounts are specified for the individual bedrooms. The description of the bedrooms matches that shown on the floor plan. The AST makes clear that the tenants should be full time students entitled to claim exemption from Council Tax. The same is the case for the period

between 1 July 2012 and 30 June 2013, with four different people from the previous year named in and signature to an AST dated 18 April 2012.

13. Thereafter there is an AST dated 20 June 2013 (the appellant states 12 June erroneously in their appeal statement) which covers the period 1 July 2013 to 30 June 2014. There are five people stated as tenants, albeit one of those only for the period 1 July 2013 to 31 August 2013 with another person replacing them as a tenant from 1 September 2013 to 30 June 2014. Thus, the AST indicates the property remained occupied by four separate persons at any one time in that year. Three of those persons were those in occupation in the previous year. The appellant indicates that he is unable to locate the counterpart signed by the tenants. Nonetheless, the appellant has provided a Statutory Declaration in which he declares the property was occupied by said persons for the relevant periods. In addition, he has provided a letter which accompanied the AST addressed to the separate occupants at the appeal property dated 20 June 2013. Moreover, he has provided, annexed to his Statutory Declaration, a letter to the occupants dated 3 February 2014 which encloses a notice under S21 of the Housing Act 1988 giving notice to the tenants of the end of their tenancy. Furthermore, he has provided excerpts from a bank statement in his name, for the period 3 April 2014 to 1 May 2014 in which incoming payments can be seen which correspond to individual rent payments for three of the occupants named to be tenants in the AST at that time.

14. Between the dates of 1 July 2014 and 30 June 2016, the property was said to be occupied by the same four persons on ASTs dated 28 May 2014 and 28 February 2015. As with the previous ASTs, both indicate in essence the occupation of the property as an HMO for four people. In contrast to the 28 May 2014 AST, the AST from 28 February 2015 is unsigned by the tenants. The appellant indicates that he is unable to locate the counterpart signed by the tenants. Nonetheless, the appellant has provided a Statutory Declaration in which he declares he entered into the agreement along with the four named people who occupied the property as an HMO. He has also provided a covering letter to the four named people addressed to the appeal property dated 28 February 2015 enclosing the AST. The appellant has also provided bank statements 2 July 2015 to 2 October 2015, 1 January 2016 to 2 February 2016 and 2 April 2016 to 29 April 2016 which show receipt of rents which correspond to those people and the rents payable in the AST.

15. At application stage, an AST covering the period 1 July 2016 to 30 June 2017 was not provided. However, the appellant has provided with the appeal the AST for that period dated 3 February 2016. As with the previous ASTs, it points towards the occupancy of the property as an HMO by four separate persons who are signatories to the document. The appellant has also provided rent invoices dated 1 September 2016, 1 January 2017 and 1 April 2017 which are addressed to the four occupants named in the AST, requesting the payment of rent for those periods.

16. Thereafter, there are ASTs provided dated: 27 February 2017 for the period 1 July 2017 to 30 June 2017; 29 January 2018 for the period 1 July 2018 to 30 June 2019; 15 March 2019 for the period 1 July 2019 to 30 June 2020; 11 March 2010 to the period 1 July 2020 to 30 June 2021; and, 1 June 2021 for the period 1 July 2021 to 30 June 2022.

17. These ASTs are similar to previous in that they suggest the occupation of the property as an HMO for four separate persons sharing some basic facilities, each liable for individual rent payments and occupying the property as full-time students. They are all signed by the appellant and each individual tenant.

18. To that end, the ASTs all indicate the property was occupied by four separate persons, not forming a single household but sharing basic amenities such as the kitchen and bathrooms. The LPA argues that the ASTs do not demonstrate that any tenancy was formally entered into. Similarly, it argues that the invoices provided do not establish who occupied the property, the nature of that occupation, or its continuity over the relevant period.

19. However, the LPA have not provided any contrary evidence which indicates the property was not occupied as an HMO during those periods of the tenancy agreements. Indeed, the appellant's evidence is precise and unambiguous about the occupation of the property. Whilst an AST alone does not demonstrate actual occupation, the fact that there is a series of such tenancies, all for conjoining periods of 12 consecutive months, all of similar detail and all setting out a similar nature of occupation, leads me to conclude that it is more probable than not that the ASTs were representative of actual occupation of the property as an HMO. Moreover, the LPA expressed the view at application stage that signed tenancy agreements can be attributed significant weight.

20. The appellant also submits that the Council's Council Tax records would indicate that the tenants were accorded exemptions from payment as full-time students throughout the relevant period. The LPA indicates that the Revenues Service at the Council has confirmed that, whilst a student exemption was granted for the property, it is unable to verify that full-time students were in occupation prior to 1 July 2022. However, it has noted that exemption notices would have been issued to the property, addressed to the student occupier, from 2017 onwards, and indeed, likely before this date, although system records only extend back to 1 April 2017. The LPA argues that, given the limitations of the available records and the Council's inability to confirm the occupancy of full-time students prior to 1 July 2022, it is not possible to reliably verify the nature of the occupation during the relevant period and as such, the evidence cannot be treated as conclusive. However, the evidence does not need to be conclusive. To my mind, the fact that the Revenues Service at the Council have indicated that student exemptions for Council Tax were likely issued for the property before 2017 lends weight to appellant's case that the property was more likely than not occupied as a small HMO throughout the period in question.

21. The LPA also argues that, in the interests of procedural fairness, evidence submitted with the appeal should be disregarded and the appeal be determined on the basis of the information available to the LPA at the time of decision. However, my decision is focused on whether the LPA's decision was well-founded, not their reasons for it. It would not be in the public interest to simply disregard evidence that was not before the LPA but is available now, simply because it was not before them. No procedural unfairness has arisen to the LPA has they have seen the evidence and had opportunity to comment on it through the appeal process. Indeed, having done so, the LPA indicates the evidence has not changed its position regardless.

22. In conclusion, enforcement action may be taken against a breach of planning control, which is defined in S171A(1)(a) as, inter alia, the carrying out of development without the required planning permission. This appeal falls to be considered under Section 171B(3) of the Act which sets out that no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. In light of the evidence above, I consider the appellant has demonstrated, on the balance of probabilities, that the use of the property as an HMO took place from 10 February 2012 for 10 years without interruption such that the LPA could have taken enforcement action against the use at any point throughout that period.

23. There is no suggestion that the accruement of lawful use rights as a result of that ten-year period has been lost. Indeed, ASTs are provided dated 14 June 2022 for the period 1 July 2022 to 30 June 2023 which similarly indicate occupation of the property by four persons as an HMO. There is an AST dated 2 May 2023 for the period 1 July 2023 to 30 June 2024 which indicate occupation by three separate persons whilst a final AST is provided dated 4 April 2024 for the period 1 July 2024 to 30 June 2025. The occupants that year were not in full-time education, nevertheless, there is nothing to suggest they did not continue to occupy the property as separate households using shared facilities as in previous years. This points towards the HMO use continuing beyond the ten-year period without any intervening material change of use or suggestion of abandonment. Indeed, the appellant indicates that since 30 June 2015, the property has been vacant whilst undergoing repair, with terms agreed for unrelated tenants in full-time education to commence occupation on 1 July 2016.

24. As a consequence, at the date the LDC application was made, enforcement action could not have been taken against the use of the property as an HMO, as the time for doing so under S171B(3) of the Act had expired. As a result, at the date the LDC application was made, the use of the property as an HMO was lawful within the meaning of S191(2) of the Act because (a) no enforcement action may then be taken in respect of it because the time for enforcement action had expired; and (b) it did not constitute a contravention of any of the requirements of any enforcement notice then in force.

Conclusion

25. For the reasons given above, I conclude, on the evidence now available, that the LPA’s refusal to grant a certificate of lawful use or development for the use of the property as a small House in Multiple Occupation (C4 use) was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

J Whitfield

INSPECTOR

Planning Inspectorate

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 12 September 2025 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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:

(a) no enforcement action may then have been taken in respect of the use because the time for enforcement action had expired; and (b) it did not constitute a contravention of any of the requirements of any enforcement notice then in force.

Signed

J Whitfield

Inspector

Date: 22 July 2026

Reference: APP/N4720/X/25/3376009

First Schedule

The use of the property as a small House in Multiple Occupation (C4 use).

Second Schedule

Land at 58 Melville Place, Woodhouse, Leeds LS6 2LZ

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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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 local planning authority.

Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 22 July 2026

by J Whitfield BA(Hons) DipTP MRTPI

Land at: 58 Melville Place, Woodhouse, Leeds LS6 2LZ

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Scale: Not to Scale