



Appeal Decision

Site visit made on 16 September 2026

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 September 2026

Appeal Ref: APP/N5660/X/25/3364033

204 Abercairn Road, Lambeth, London SW16 5AQ

- 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 Lawrence Adebisi of Yellowstone Health Care Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application ref 24/03902/LDCP, dated 12 December 2024 was refused by notice dated 21 March 2025.
 - The application was made under section 192(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 to use an existing small (6 person or less) class C4 HMO as a children's care home for 1 resident.
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Preliminary Matters

1. Although the Council's reason for refusal concerns the planning merits, the purpose of a s192 application is to determine whether planning permission is required.

Main Issue

2. The main issue is whether the Council's decision to refuse a LDC was well-founded. This turns on whether the proposed use would amount to a material change from the lawful existing use of the property.

Reasons

3. The appellant describes the appeal property as a terraced dwelling lawfully used as a Class C4 small house in multiple occupation (HMO). The proposal is for one young person, aged between 5 and 17, to live at the property with at least two adult carers present at all times. The carers would not live there as their main residence. Shift handovers would take place every two days, with one or two visits a week from social workers or other professionals.
4. Where a proposal involves a change from one use class to another, whether it amounts to a material change of use is a matter of fact and degree. In *Waltham Forest LBC v SSETR & Tully [2002] EWCA Civ 330*, the Court of Appeal held that the proposed use should be compared with the lawful existing use, rather than a notional permitted use. Subject to the particular circumstances, the proposed use as a children's home for one resident would normally fall within Class C2. A change from a Class C4 small HMO would therefore not be excluded from development by s55(2)(f) of the Act.
5. The appellant states that the property is lawfully used as a Class C4 small HMO. However, the Council has no record of the HMO licence which it says is required for that use. There are also discrepancies between the stated uses and the

submitted plans. The existing plans show two reception rooms and a kitchen on the ground floor, with three bedrooms and a bathroom above. In contrast, the proposed plans show three en-suite rooms on the ground floor, two en-suite rooms and a kitchen on the first floor, and a further en-suite room and kitchen in the loft.

6. I have considered whether the drawings may have been incorrectly titled or described. However, the appeal plans correspond with those submitted with the application. On the evidence before me, I therefore cannot be satisfied that the property is currently in lawful use as a Class C4 small HMO.
7. Given the uncertainty about the lawful existing use and the discrepancies between the stated uses and the submitted plans, I cannot reliably compare the existing and proposed uses. I am therefore unable to determine, with the necessary degree of certainty, whether the proposed change of use would be material. Accordingly, the appellant has not provided sufficiently clear evidence to show that the use for which the LDC is sought would not require planning permission.

Other Matters

8. I have considered the submitted evidence, including previous appeal decisions. However, such cases turn on their particular facts and circumstances, so I give those decisions limited weight in this appeal.

Conclusion

9. I conclude that the Council's refusal to grant a LDC is well-founded and that the appeal should fail. I will therefore exercise the powers transferred to me under section 195(3) of the 1990 Act (as amended).

Formal decision

10. The appeal is dismissed.

A A Phillips

INSPECTOR