

Appeal Decision

Site visit made on 16 September 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 8th October 2026

APP/Z4310/X/25/3376759

78 Woodcroft Road, Liverpool L15 2HQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against a refusal by Liverpool City Council to grant a certificate of lawful use or development, (LDC).
- The appeal was made by Mr Tanzeel Rehman.
- The application was dated 17 June 2025 and validated on 17 June 2025 under reference 25LE/1653. It was refused by a notice issued on 8 December 2025.
- The Application for a Certificate of Existing Lawful Development described the use: *"The property is used as a small HMO and has been since before the article 4 direction was implemented. It has been a HMO since at least 2018."*

Summary of decision: The appeal is allowed and a certificate of lawful use is issued in the terms set out below in the Formal Decision.

Appeal property and application

1. The appeal property, No. 78 Woodcroft Road, Liverpool is a 2 storey terrace house in a row of similar properties in the Smithdown/Wavertree area of Liverpool.
2. The application plans of the ground floor of No. 78 show a front bedroom, a lounge, dining room and a small kitchen at the rear. The house also has a rear yard. On the first floor the drawings show 2 bedrooms, a bathroom and a 4th bedroom at the back of the house.
3. The Appellant's claim was that the house at No. 78 had been used as a small HMO since August 2016 and so continuously since then.
4. The Council's reason to refuse to issue a certificate of lawfulness said: "The evidence submitted does not adequately and irrefutably demonstrate that the premises have been used as a 3 - 6 bed HMO continuously after 17th June 2021 when the Article 4 direction came into force, till the date of the application. As such the certificate is not capable of being granted."

Background

5. S.191(1) of the Act provides that if any person wishes to ascertain whether (a) any existing use of buildings or other land is lawful; they may make an application for the purpose to the Local Planning Authority. Where that application is refused or deemed to have been refused and an appeal made, the burden of proof to show that the decision was not well founded lies with the appellant.
6. The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 came into force on 6 April 2010. It introduced a new Use Class (houses in multiple occupation, Use Class C4) - Article 2(4). Use Class C4 covered use of a dwellinghouse as a house in multiple occupation as defined in s.254 of the Housing Act 2004. SI No. 653 to the amended Order described Use Class C4

Houses in Multiple Occupation as the use of a dwellinghouse by not more than 6 residents as a “house in multiple occupation”. It would be a small shared house occupied by between 3 and 6 unrelated individuals as their only or main residence, who share basic amenities such as a kitchen or bathroom. Order amendment No. 2, SI 2010/2134 meant that from 1 October 2010 a change of use from a dwelling (C3) use to use as a House in Multiple Occupation (HMO) (C4) does not require planning permission.

7. However, a Liverpool City Council Article 4 Direction made under the General Permitted Development Order covering an area that includes the application property came into force on 17 June 2021. The Direction removed permitted development rights for conversion from a Use Class C3 dwellinghouse to a Use Class C4 small HMO.

Considerations

8. A Statutory Declaration dated 19 June 2025 by the then owner of No. 78 Woodcroft Road said she purchased the property on 4 December 2015. It had been used as a small HMO in 20 August 2016 and had been continuously so used since then. The property was currently in use as a small HMO, (on the date of the Declaration). A number of Assured Shorthold Agreements and details of rental payments dated prior to the implementation of the Article 4 Direction was said to aid confirmation of that use.
9. The Council accepted that the evidence provided demonstrated that the property was occupied as an HMO prior to the Article 4 Direction coming into force on 17 June 2021. However, they asserted the Applicant had not provided sufficient evidence to demonstrate that the use continued without material interruption and remained within Use Class C4, (3 – 6 occupants), up to the date of the application on 17 July 2025.
10. In my view, although the Council wanted to see evidence that No. 78 had not reverted to a C3 family home use since the Article 4 Direction came into force, up until the date of the application for an LDC, 17 June 2025, or that it had not been the subject of a material change of use to another use in that time, the lawful use HMO use of No. 78 Woodcroft Road appears to have persisted, there being no evidence shown of a reversion to a lawful C3 family home use from then to the date of the application for an LDC.
11. As the HMO use had become lawful, prior to the implementation of the Article 4 Direction, it was not necessary that the property be occupied without any significant breaks for the C4 lawful use to be retained. That is unlike the situation where an unlawful use needs to remain in being without a significant break or breaks throughout the enforcement period to ultimately gain lawfulness by the passage of time. A use which was merely dormant or inactive can still be considered as ‘existing’, so long as it had already become lawful and not been extinguished - *Panton & Farmer v SSETR & Vale of White Horse DC* [1999] JPL 461.
12. There was no indication in the evidence presented of No. 78 Woodcroft Road having reverted to a C3 family use, nor did the Council show there had been a material change of use of the property to an unlawful use, a burden that would have transferred to the local planning authority upon the HMO use becoming lawful.
13. The appeal succeeds.

Conclusion

14. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful development on the application made for the existing use as a

House in Multiple Occupation for 3 - 6 persons (Use Class C4) under section 191(1)(a) of the Act in respect of the property at No. 78 Woodcroft Road, Liverpool L15 2HQ was not well founded and that the appeal should succeed. I exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended. A Certificate of Lawfulness is attached.

John Whalley

INSPECTOR



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 (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995: ARTICLE 24

IT IS HEREBY CERTIFIED that on 17 June 2025 the development described in the First Schedule hereto in respect of the premises specified in the Second Schedule hereto, was lawful within the meaning of section 191(1)(a) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The change of use of the property from a C3 dwelling use to a lawful C4 HMO use was permitted by The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010.

John Whalley

INSPECTOR

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First Schedule

Use of the property as a House of Multiple Occupation for 3 - 6 persons, (Use Class C4)

Second Schedule

No. 78 Woodcroft Road, Liverpool L15 2HQ

IMPORTANT NOTES OVERLEAF
NOTES

1. This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the development described in the First Schedule and specified in the Second Schedule was lawful on the certified date and thus would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the development described in the First Schedule and specified in the Second Schedule and identified on the attached plan. Any development materially different from that described, or which relates to any other land, may result in a breach of planning control that is liable to enforcement action by the Local Planning Authority.
4. The effect of the Certificate is subject to the provision in Section 191(6) of the 1990 Act, as amended, which states that the lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

Lawful Development Certificate Plan

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No. 78 Woodcroft Road, Liverpool L15 2HQ



Plan attached to the Lawful Development Certificate - No scale

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