Planning Inspectorate

# Appeal Decision

**by S A Hanson BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 November 2026**

## Appeal Ref: APP/G3110/X/25/3373563
## 1 Littlemore Road, Oxford OX4 3ST

- 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 Sankara Garapati Uma against the decision of Oxford City Council.
- The application ref 24/02920/CEU, dated 5 December 2024, was refused by notice dated 27 March 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: Use of 1 Littlemore Road, Oxford as a House in Multiple Occupation (HMO) containing 5 bedrooms.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. It has not been necessary to carry out a site visit as, in this particular case, where all the required information is included with the application and appeal documents, a decision can be reached on the papers. The main parties were informed of my decision not to visit, and no objections were raised to the appeal being determined on this basis.

3. An application under section 191(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act) seeks to establish whether, at the time of the application any existing use of buildings or other land is lawful. Thus, the planning merits of the matters applied for do not fall to be considered. The decision is based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law. The test of the evidence is made on the balance of probabilities and the burden of proof rests with the appellant.

4. The use for which an LDC is sought is described by the appellant in the banner heading. This description has been modified by the council to ‘Application to certify that the existing House in Multiple Occupation (Use Class C4) is lawful’. This is considered a more accurate description based on the submissions from the parties. I will therefore proceed with the appeal accordingly as there will be no injustice to either party.

5. Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) provides for the use of a dwellinghouse as a ”house in multiple occupation” (small HMO) by not more than 6 residents; that is unrelated individuals who share basic amenities such as a bathroom and kitchen. An HMO has the same meaning as in s254 of the Housing Act 2004, and a building will be used as such if it meets the relevant test contained therein.

6. Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) at Article 3, Schedule 2, Part 3, Class L grants planning permission for a change of use from a dwellinghouse (Class C3) to a small HMO (Class C4). However, on 24 February 2012 a Direction under Article 4(1) of the GPDO came into force covering the area in which the appeal property is located. The effect of this Direction is that a change of use from Class C3 to Class C4 has required express planning permission since that date.

## Main Issue

7. The main issue is whether the Council's refusal of the LDC was well-founded. This turns on whether the appeal property was in use as a Class C4 HMO continuously for a period of at least 10 years before the date of the LDC application such that the use had become immune from enforcement action.

## Reasons

8. Section 191(2) of the 1990 Act provides a definition of "lawful" as being uses and operations that: a. No enforcement action may 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.

9. To establish lawfulness under section 191(2) of the Act, the appellant must demonstrate, on the balance of probabilities and through sufficiently precise and unambiguous evidence, that the property has been in continuous Class C4 use for a period of at least ten years[1] prior to the application date, that is 5 December 2024. The use need not have commenced within the 10 years immediately preceding the application, provided it subsequently became lawful and has not been materially changed or abandoned.

10. The appellant contends that the property has operated as an HMO since 2007. In support of that claim, reliance is placed upon licensing records, maintenance and safety documentation, and a mortgage illustration associated with the purchase of the property, and other supporting material. It is argued that the licensing history is highly persuasive evidence of HMO occupation and that, in the absence of any evidence to the contrary, the material demonstrates continuous Class C4 use during this period.

11. The Council accepts that the property may have been used as a Class C4 HMO during certain periods. However, it contends that the evidence does not sufficiently demonstrate the nature and continuity of occupation between 5 December 2014 and 28 August 2018, being the period before the appellant acquired the property. Consequently, it is not satisfied that continuous Class C4 use has been established on the balance of probabilities.

12. The evidence indicates that the property was subject to successive HMO licences from 2012 onwards. I accept that the licensing history, the payment of licence fees and compliance with the statutory licensing regime provide some support for the appellant's case. However, such evidence is indirect and does not establish how the property was actually occupied during the period before August 2018.

[1] Section 171B(3) of the Act

Accordingly, it carries only limited weight in demonstrating continuous Class C4 use throughout that period.

13. The appellant also relies on a letter from the former owner and correspondence from estate agents indicating that the property operated as a five-bedroom HMO before its sale in 2018. However, the former owner's letter was not made by way of statutory declaration or sworn evidence, and neither it nor the estate agent's correspondence is supported by corroborating documentation demonstrating the actual use and occupation of the property.

14. Taken together with the licensing records, this material provides some support for the appellant's case. However, in the absence of direct evidence such as tenancy agreements, rent records, utility accounts or declarations from former occupiers covering the relevant period, it falls short of demonstrating continuous Class C4 use.

15. I also note that the appellant's statutory declaration principally assembles evidence relating to the period following his acquisition of the property on 28 August 2018. While I attach significant weight to matters within the appellant's direct personal knowledge and supported by records, it does not establish the nature, extent or continuity of the use during the earlier period that is critical to the appeal.

16. The appellant further relies upon the absence of evidence from the Council or any other party demonstrating that the property was not occupied as a Class C4 HMO during the relevant period. However, the absence of contradictory evidence does not, in itself, establish the claimed use. The question remains whether the evidence relied upon is sufficiently precise and unambiguous to demonstrate continuous C4 occupation throughout the relevant period. It is not enough that the evidence suggests such use may have occurred at various points in time. Rather, the evidence must show that the claimed use subsisted continuously throughout the whole of the requisite 10-year period. For the reasons set out above, I am not satisfied that the evidence achieves that.

17. Drawing these matters together, while I have no reason to dispute that 1 Littlemore Road was occupied as a Class C4 HMO from the appellant's acquisition of the property in August 2018 up to the application date, that period falls short of the immunity period required by section 171B(3) of the 1990 Act. The evidence relating to the period before August 2018 is insufficient to bridge that gap. Accordingly, it has not been demonstrated, on the balance of probabilities, and through sufficiently precise and unambiguous evidence, that the property was in continuous Class C4 use for a period of at least 10 years before the application date.

## Conclusion

18. I conclude that the Council's refusal to grant an LDC was well-founded and therefore the appeal should fail. I will exercise the powers transferred to me in section 195(3) of the 1990 Act.

*S A Hanson*

INSPECTOR