Planning Inspectorate

Appeal Decision

Site visit made on 14 October 2026

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 9th November 2026

Appeal Ref: APP/Z4310/X/26/3377775
38 Borrowdale Road, Liverpool L15 3LE

- The appeal is made by Mohammed Raja of Mr Sales & Lettings under section 195 of the Town and Country Planning Act 1990 against a refusal by Liverpool City Council to grant a lawful development certificate.
- The application Ref: 25LE/1174, dated 25 April 2025, was refused by notice dated 23 June 2025.
- The application was made under section 191(1)(a).
- The development for which the certificate is sought is "a 7 bed House in Multiple Occupation (HMO) Sui Generis".

Decision

1. The appeal is dismissed.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application for the certificate is or is not well-founded. The assessment is based on the lawfulness of the use at the time of the application. The planning merits of the use are not relevant to the appeal and there is no planning application before me. If the Council have no evidence themselves, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of the certificate on the balance of probability.

3. Section 191(2) provides that the use is lawful in this instance if no enforcement action may be taken in respect of it because the time for enforcement action has expired. The Council refused the application because "1. The local planning authority, based on the evidence provided to the Council, is not satisfied that the use was subsisting during the period of ten years ending with the date of the application". However, the correct approach is to ascertain when the use began and whether it continued uninterrupted for the following ten years, so that it became a lawful use through the passage of time, and, if so, to assess whether or not the lawful use right has been lost between the date of its acquisition and the date of the application.

4. With these factors in mind, I have assessed all the information available to me.

5. Council Tax records indicate that the house was in use as a large HMO (i.e. an HMO for more than 6 residents) on 1 July 2013. On this basis the 10-year period would end on 1 July 2023. Between 1 July 2013 and 31 January 2016 the records indicate that the number of residents was 7 or 8. The number of residents for the period from 1 February 2016 to 30 October 2023 has not been recorded in the Council Tax records because a student Council Tax exemption did not apply. The records state that the house was empty on 31 October 2023.

6. The lettings manager for the house for the period 1 February 2016 to 31 July 2020 has made a statutory declaration confirming that the house was managed by him during this period as a seven-bed HMO housing up to seven occupants. A manager of the company that managed the house from 1 August 2020 to 31 October 2023 has made a statutory declaration confirming that the house was managed by the company during that period as a seven-bed HMO housing up to seven occupants. The owner of the house made a statutory declaration on 25 July 2024 stating that it had been "used consistently as a HMO since 2010".

7. On 3 October 2023, the Council granted an HMO licence in respect of the house, which stated that it was "reasonably suitable for occupation by not more than 7 persons in 7 households". The licence remained in effect for 12 months.

8. Further information was submitted to the Council in connection with two previous applications for the same certificate (25LE/1174, refused in 2023, and 24LE/0269, refused in 2024). This information included similar HMO licences covering the period from 19 September 2011 to 12 September 2016, some tenancy agreements for various dates between 2012 and 2022 and some account statements for various periods between 2020 and 2024 relating to each of the seven rooms.

9. I have assessed all this information and reached the following conclusions.

10. Information contained in the Council Tax records and the statutory declarations of the managers is good evidence. Together, they demonstrate that the use of the house as a seven-bed HMO housing up to seven residents existed on 1 July 2013 and that it continued uninterrupted for the following ten years, so that it became a lawful use through the passage of time on 1 July 2023.

11. I turn now to consider whether or not this lawful use right could have been lost between 1 July 2023 and the date of the application, which is 25 April 2025. It is possible that this could have occurred for several reasons and the applicant should have addressed this matter in more detail. It is noticeable that the Council Tax records state that the house was empty on 31 October 2023 and the management information ceases on 31 October 2023, that the owner's statutory declaration does not refer specifically to a seven-bed HMO and that there are shortcomings in the information provided for the period since 1 July 2023 as respects HMO licensing, tenancies and accounts. These matters call for further explanation and it is the applicant's responsibility to provide it; without it, the applicant's evidence is not sufficiently precise and unambiguous to justify the grant of the certificate on the balance of probability and the appeal has therefore been dismissed.

12. In reaching this conclusion I have taken into account the applicant's assertion that the Council have granted certificates for other HMOs in similar

circumstances. As explained above, I have based my decision on the specific matters that arise in this appeal.

D.A.Hainsworth

INSPECTOR