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/26/3377472
91 Picton Road, Liverpool L15 4LF

- The appeal is made by Ho Man Lee under section 195 of the Town and Country Planning Act 1990 against a refusal by Liverpool City Council to grant a certificate of lawful use.
- The application Ref: 25LE/1678, dated 20 June 2025, was refused by notice dated 26 November 2025.
- The application was made under section 191(1)(a).
- The development for which the certificate is sought is the "Existing use as a C4 HMO (6 people or less)".

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use relating to the existing use described in the certificate, which I consider was lawful at the time of the application.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application 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. By virtue of Class L of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 planning permission is not normally required to change the use of a Class C3 dwellinghouse to a Class C4 small HMO, but the Council made a direction under article 4(1) of the Order which came into effect on 17 June 2021 and withdrew the right to do so in the area of the City containing the house.

4. The Council refused the application for the following reason: -

   "1. The evidence provided does not demonstrate that, on the balance of probabilities, the property was in use as a Class C4 HMO prior to the introduction of the Article 4 direction and that this use has been maintained

until the date of the application. The application does not therefore meet the test under Section 191 of the Town and Country Planning Act 1990. Accordingly, it is recommended that the certificate be refused."

5. The Council have clarified their position during the appeal process, following the receipt of further information from the appellant about a gap in the occupation of the property. This has explained that it was due to a change of ownership followed by a period of refurbishment. However, the Council state that it is still not clear how long residents typically stay in the property and that no evidence is available to confirm the house serves as a permanent home for its occupants rather than as temporary accommodation. The Council maintain that the property may be classed as a hostel or as a sui generis use rather than as a Class C4 HMO if it operates as temporary accommodation, particularly if it provides 'initial' accommodation to persons progressing through the asylum process.

6. I have assessed all the available information. It is clear that by virtue of the planning permission granted by the Order the property was in lawful use as a small HMO when the Article 4 direction came into force and that it had been for many years.

7. I have considered whether evidence exists of any of the events that could in law have given rise to a loss of the lawful use right by the time of the application.

8. The gap in the occupation of the property has been satisfactorily explained. The period of non-use was short and was for refurbishment, and no other use occurred in this period.

9. The property has provided residential accommodation for asylum seekers. The Council have drawn a distinction between 'initial' accommodation for asylum seekers and 'dispersal' accommodation for them. The Council maintain that the former provides temporary accommodation for persons progressing through the asylum process and may therefore be classed as use as a hostel or a sui generis use; the latter provides more permanent accommodation that would be within a Class C4 HMO use.

10. The Council asked the applicant which type of accommodation was provided at the property and were informed that it was 'dispersal' accommodation and that the typical length of stay could not be predicted - it could be weeks, months or years, depending on the length of time the asylum claim took. The Council maintain that this is a simple assertion without evidence and therefore carries little weight.

11. However, the Council have produced nothing to contradict this information or otherwise to make it less than probable, nor have they supplied any other information which might show that the lawful use right had been lost by the time of the application. All they have stated is that in their experience occupants have stayed for as little as two weeks in similar properties, which is purely anecdotal information. I consider that the applicant's statement that the property provides 'dispersal' accommodation is sufficiently precise and unambiguous to be accepted in the circumstances.

12. I am satisfied on the balance of probability that the Council's refusal of the application is not well-founded. The appeal has therefore been allowed and a certificate of lawful use has been granted.

D.A.Hainsworth

INSPECTOR

Planning Inspectorate

Certificate of Lawful Use

APPEAL REFERENCE APP/Z4310/X/26/3377472
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39 & SCHEDULE 8

IT IS CERTIFIED that on 20 June 2025 the use described in the First Schedule to this certificate in respect of the building specified in the Second Schedule to this certificate and shown edged and hatched in black on the plan attached to this certificate was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990, for the following reason:

The use was permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, article 3(1) and Schedule 2, Part 3, Class L

D.A.Hainsworth

INSPECTOR
Dated: **9th November 2026**

First Schedule

Use as a C4 HMO (6 people or less).

Second Schedule

91 Picton Road, Liverpool L15 4LF

Notes

1. This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990.
2. It certifies that the use described in the First Schedule taking place in the building specified in the Second Schedule was lawful on the specified date and, therefore, was not liable to enforcement action under Part VII of the 1990 Act on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the building specified in the Second Schedule and identified on the attached plan. Any use that is materially different from that described or which relates to any other land may render the owner or occupier liable to enforcement action.

Planning Inspectorate

Plan attached to Certificate of Lawful Use

91 Picton Road, Liverpool L15 4LF

Appeal reference: APP/Z4310/X/26/3377472

This is the plan attached to the Certificate of Lawful Use dated: 9th November 2026

D.A.Hainsworth
Inspector

