

Planning Statement

492 Archway Road, London N6 4NA

For Ms Justine Cawley

Prepared by Gracechurch Town Planning Ltd

TABLE OF CONTENTS

EXECUTIVE SUMMARY	2
THE SITE	4
HISTORY OF THE SITE AND ITS USE	5
ASSESSMENT OF EVIDENCE	7
CONCLUSION AND NEXT STEPS	13
APPENDICES.....	15

EXECUTIVE SUMMARY

1. This Planning Statement has been prepared by Gracechurch Planning Ltd, on behalf of Ms Justine Cawley (“the applicant”), in support of an application for a Lawful Development Certificate made under s191 of the Town and Country Planning Act of 1990 (as amended) to confirm that the lawful use of the lower ground floor of 492 Archway Road, London N6 4NA (“the site”) is two self-contained flats (Use Class C3).
2. s171B of the Town and Country Planning Act 1990 (as amended) states that, where there has been a breach of planning control in England consisting in the change of use of any building to use as residential units, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach if this occurred before 25 April 2024.
3. The use of the lower ground floor of 492 Archway Road as two self-contained flats known as Flat A1 and Flat A2 began no later than four years before the date of the application, and no planning enforcement action has taken place during this time.
4. The evidence provided within this application is clear and unambiguous, and demonstrates well beyond the balance of probabilities threshold that the lower ground floor of 492 Archway Road has been used as two separate self-contained flats on a continuous basis for more than four years before the date of the application. The evidence includes:
 - existing floorplans of the lower ground floor of the property showing the current layout;
 - statutory declarations from the following persons:
 - Ms Justine Cawley, the applicant and owner of the site;
 - Ms Mariola Lita, the joint tenant (with her partner Mr Przemyslaw Linner) of Flat A1 who has lived in the property for over 11 years, of which the last nine have been in Flat A1; and
 - Ms Dilan Arican, the tenant of Flat A2 who has lived in the property for over five years.
 - Assured Shorthold Tenancy agreements for both flats Flat A1 and Flat A2;
 - bank statements for the period April 2022 to April 2026 which denote monthly rental payments received for each flat;
 - utilities bills for Flat A2; and
 - Energy Performance Certificates for each of the flats as well as the two other flats in the building.

5. The evidence submitted is consistent and corroborates unequivocally the case made by the applicant, and addresses the issues raised by the Council in its decision on 31 March 2026 in connection with an application ref. HGY/2026/0194 for a Lawful Development Certificate made previously by the applicant at this site.
6. As the evidence provided is clear and unambiguous, and there is no evidence available that contradicts the case made by the applicant, the appropriate and reasonable conclusion, applying the balance of probabilities test, is that the application should be granted and a Lawful Development Certificate under s191 of the Town and Country Planning Act 1990 (as amended) must be issued.
7. A Lawful Development Certificate can therefore be issued without delay.

THE SITE

8. 492 Archway Road, London N6 4NA (“the property”) is an end of terrace property located on the northern side of Archway Road. The property has three floors, referred to as the lower ground floor; the upper ground floor; and the first floor.
9. The property is made up of four separate flats, known as and laid out as follows:
 - Flat A1 and Flat A2 are located within the lower ground floor. Flat A1 is at the front and Flat A2 is at the rear;
 - Flat B is located on the upper ground floor; and
 - Flat C is located on the first floor.
10. This application relates to Flats A1 and A2 on lower ground floor only, i.e. this is the application site. These are two separate flats. Each flat is self-contained in that it has an open plan / combined bedroom and fully equipped kitchen space, and a bathroom, including full washing and lavatory facilities. The flats have a shared access via a door on the side of the building, which leads to a communal lobby, with then individual front doors for Flats A1 and A2.
11. Each flat is self-contained and is separate to the other flats within the property and there are no shared facilities, other than the communal lobby to the lower ground floor and the rear garden.

HISTORY OF THE SITE AND ITS USE

Physical configuration of the site

12. The applicant purchased the freehold of 492 Archway Road, London N6 4NA on 25 March 2015. When she purchased the property, it comprised five separate self-contained flats. The flats at that time were known as and laid out as follows:
 - Flat 1 and Flat 2 were located within the lower ground floor. Flat 1 was at the rear and Flat 2 was at the front;
 - Flat 3 and 4 were located on the upper ground floor. Flat 3 was at the front and Flat 4 was at the rear; and
 - Flat 5 was located on the first floor.
13. In May 2016 the applicant made a full planning application to the Council. The application was given reference number HGY/2016/1830 and sought permission for alterations to the existing flats, including the amalgamation of the two existing lower ground floor flats into one single flat, and the amalgamation of the two existing upper ground floor flats into one single flat. In other words, the permission authorised the change of the building from five flats to three flats, with one on each floor. The Council granted permission on 13 February 2017.
14. In September 2017 the applicant made a further application for a Minor Material Amendment to the approved planning permission. The application was given reference number HGY/2017/2824 and sought permission for minor alterations to the approved permission. The Council granted permission for this application on 22 November 2017.
15. In January 2018 the applicant commenced the works for the approved planning permission.
16. In April 2018 the applicant made a further application for a Minor Material Amendment to the approved planning permission. The application was given reference number HGY/2018/1440 and sought permission for minor alterations to the approved permission. The Council granted permission for this application on 19 June 2018.
17. Due to also undertaking works at the adjacent property at 494 Archway Road (which the applicant also owned), the applicant did not complete the works that had been consented at 492 Archway Road. The works that were undertaken comprised:

- the amalgamation of the two existing upper ground floor flats into one single flat; and
 - alterations to the access to the lower ground floor.
18. Following the completion of the works, the configuration of the property since 2018 has been as four separate flats, known as and laid out as follows:
- Flat A1 and Flat A2 are located within the lower ground floor. Flat A1 is at the front and Flat A2 is at the rear;
 - Flat B is located on the ground floor; and
 - Flat C is located on the first floor.
19. The lower ground floor remains as it was when the applicant purchased the property in March 2015, i.e. two separate self-contained studio flats. Each flat is a self-contained studio flat with an open plan / combined bedroom and fully equipped kitchen space, and a bathroom, including full washing and lavatory facilities. The flats have a shared access via a door on the side of the building, which leads to a communal lobby, with then individual front doors for Flats A1 and A2.
20. Each flat is self-contained and is separate to the other flats within the building and there are no shared facilities, other than the communal lobby to the lower ground floor and the rear garden.

Occupation of the flats

21. Each of the flats has been occupied continuously for a period of at least four years before the date of the application. The occupation has been as follows:
- Flat A1 – occupied continuously by Przemyslaw Linner and Mariola Lita since 27 August 2017 to the present day; and
 - Flat A2 – occupied continuously by Dilan Arican since 23 April 2021 to the present day.

ASSESSMENT OF EVIDENCE

22. The purpose of this application for a Lawful Development Certificate is to establish under s191 of the Town and Country Planning Act of 1990 (as amended) that the lawful use of the lower ground floor of the property is two self-contained flats (Use Class C3).
23. The application contains the following documents as evidence to confirm, on the balance of probabilities, that the use of the ground floor of the site as two flats is lawful:
- existing floorplans of the lower ground floor of the property showing the current layout;
 - statutory declarations from the following persons:
 - Ms Justine Cawley, the applicant and owner of the site;
 - Ms Mariola Lita, the joint tenant (with her partner Mr Przemyslaw Linner) of Flat A1 who has lived in the property for over 11 years, of which the last nine have been in Flat A1; and
 - Ms Dilan Arican, the tenant of Flat A2 who has lived in the property for over five years.
 - Assured Shorthold Tenancy (AST) agreements for Flat A1 covering the following dates:
 - 2 April 2022 to 2 April 2023; and
 - 2 May 2024 to 1 May 2025.
 - AST agreements for Flat A2 covering the following dates:
 - 23 April 2021 to 22 April 2022; and
 - 21 May 2024 to 20 May 2025.
 - bank statements for the period April 2022 to April 2026 (this being the most recent available) which denote monthly rental payments received for each flat;
 - utilities bills for Flat A2; and
 - Energy Performance Certificates for each of the flats as well as the two other flats in the building.
24. An assessment of the evidence is set out below, along with the weight to be afforded to it.

Existing floorplan

25. Existing floorplan drawing ref. WHB-MA 20 0001 is submitted. This shows each flat clearly labelled as Flat A1 (at the front) and Flat A2 (at the rear), and shows that

each flat has the following facilities and amenities fundamental to occupation as a self-contained residential unit:

- an open plan / combined bedroom and fully equipped kitchen space, to enable the storage, preparation, cooking and serving of hot and cold food;
- a bathroom, including full washing and lavatory facilities; and
- a front door separated from other flats within the building.

26. There is no doubt that there are two separate “residential units” for the purposes of s171(B)2 of the Town and Country Planning Act 1990 (as amended), and this plan should be afforded significant weight to demonstrate this.

Statutory declarations

27. The statutory declarations provided are from the applicant who has owned the freehold of the property since 2015, and two current tenants, both of whom have lived in the flats that are the subject of the application for more than four years.
28. These are people who have direct and first-hand knowledge of the site and its use through their experience of either owning, managing or living in the property. The evidence within the statutory declarations is clear and unambiguous, and each one supports and corroborates the other evidence provided in this application.
29. The weight to be afforded to these statutory declarations is therefore significant. This position was confirmed in an appeal decision ref. APP/G5180/X/25/3367733 at 56 Cudham Lane North, Cudham, Bromley, Sevenoaks TN14 7RA where signed statutory declarations were made by the owner of the building and his family members. The Inspector comments at paragraph 8 of the decision letter (attached at **Appendix 1**) that:

I afford the sworn evidence from these 3 parties considerable weight given their intimacy of knowledge.

30. This confirms that considerable weight should be afforded to both the applicant’s signed statutory declarations as well as the existing / current tenants given their intimate knowledge of the use of the property.
31. Each of the tenants has confirmed that they are familiar with the other flat in the lower ground floor due to the proximity to one another. This is evidence that the flats are separate and have been occupied continuously for the four year period in question.

32. The position that the evidence of one tenant can be relied on in connection with the occupation of other parts of the building was endorsed at appeal by a Planning Inspector for appeal ref. APP/U5930/X/23/3330289 at 30 Brierley Road, Leytonstone, London E11 4JE. In it the Planning Inspector accepted the appellant's evidence where the position outlined a tenant occupying one room in a House of Multiple Occupation can be relied upon to confirm that the other rooms within the property were also in use and continuously occupied. Paragraphs 33 and 34 of the decision letter (attached at **Appendix 2**) set out that:

33. The evidence of the TAs for Rooms 1F and 1M and the declarations made by tenants BB and CF who signed them, along with the supporting documentary evidence provided by the appellant, is precise and unambiguous. I find it is sufficient to demonstrate that those 2 rooms were concurrently occupied on terms indicating use as an HMO for over 14 years.

34. While the evidence for the use of the other 2 rooms is less compelling, it is instructive to consider the terms of the TAs that have been substantiated by tenants BB and CF in the context of the layout of the property and how it could be used by any other residents.

33. The tenants' statutory declarations declare that they have interacted with the other tenants.
34. Significant weight should be afforded to the signed statutory declarations of the existing / current tenants given their intimate knowledge of the use of the property including that each flat has been occupied by the other tenant in the last four years.

AST agreements

35. Four AST agreements are provided, two for each flat. These cover the following periods:
- 2 April 2022 to 2 April 2023 and 2 May 2024 to 1 May 2025 for Flat A1; and
 - 23 April 2021 to 22 April 2022 and 21 May 2024 to 20 May 2025 for Flat A2.
36. Three of the ASTs are signed; it is acknowledged that one is not signed, as the original signed version has been misplaced.
37. It is also acknowledged that there are 'gaps' in the ASTs, i.e. that they do not run consecutively. However, it is normal and accepted practice that ASTs are provided on a rolling periodic basis. This is where at the end of the fixed tenancy period, a

tenant may remain in occupation on a rolling periodic tenancy, continuing on the same terms but without a fixed end date. Attached at **Appendix 3** is a copy of the now withdrawn Government guidance "*How to Rent: The checklist for renting in England*" dated October 2023. While this is now withdrawn following the introduction of the Renters Rights Act 2026 – where all tenancies now must be provided on a rolling basis without a fixed term – the guidance was in place in the period of occupation for the two flats that are the subject of this application.

38. This therefore explains why the ASTs do not cover the full four year period in question. This can also be seen in the aforementioned appeal at 30 Brierley Road, Leytonstone. For one of the rooms in question in that appeal, just two ASTs were provided dated 2006 and 2015, i.e. with a substantial gap in between. The Planning Inspector noted the "*absences of TAs [Tenancy Agreements] and other contemporary documentary evidence*" but did not consider that this was determinative and ultimately, in conjunction with other evidence, could be explained.
39. What is pertinent is that:
- the dates of the first ASTs pre-date the four year period demonstrating that the occupation first commenced in advance of this; and
 - the ASTs are signed by / in the names of the tenants that are currently in situ, with new ASTs being prepared in 2024 to show that these same tenants have continuously occupied the flats throughout the four year period.
40. It is therefore the case that significant weight should be afforded to the ASTs on the basis that they demonstrate that the tenants have been in continuous occupation of each flat for at least four years before the date of the application.

Bank statements

41. The applicant is providing bank statements covering the full four year period which demonstrates that she has received rent from the tenants separately for each of the flats.
42. With respect to Flat A1, as confirmed by the other evidence, this has been occupied by Mr Linner and Ms Lita (since August 2017). Ms Lita has made monthly payments to the applicant for her and her partner's rent using the payment reference 'LITA M FLAT 4 RENT' over the last four years. As noted in both the statutory declarations provided by the applicant and by Ms Lita herself, the reason for this reference being used is that Mr Linner and Ms Lita had previously occupied a different flat in the property then known as Flat 4 and so paid rent to the

applicant using this as the reference; when they moved into Flat A1, they did not update the reference for the payments. The key point is that Flat A2 has been occupied by Mr Linner and Ms Lita for the last four years and Ms Lita has made payments to the applicant.

43. With respect to Flat A2, as confirmed by the other evidence, this has been occupied by Ms Arican (since 2021). Ms Arican has made monthly payments to the applicant for her rent using the payment reference 'ARICAN D, A/2 492 ARCHWAY RD' over the last four years.
44. The bank statements are a clear record of the applicant having received payments on a monthly basis for each of the flats separately for the full four-year period in question. As such, they should be afforded significant weight.

Utilities bills

45. The tenant of Flat A2 has provided electricity bills for her supplier. The bills are addressed to the tenant at her address and make clear that they relate to her individual property listed as: "*Flat A2, 492 Archway Road, London, London [sic], N6 4NA.*" The bills each cover a month period for four of the five years of the tenant's occupation, i.e. 2021, 2022, 2024 and 2025.
46. The bills are contemporaneous evidence that the occupant was paying for her domestic energy supply to the property in question, and so by extension are a clear indication that she was living in the property over this period. As such, they should be afforded moderate weight.

Energy Performance Certificates

47. Each of the four flats within the building has had an individual Energy Performance Certificate (EPC). The EPCs are as follows:
 - Flat A1 – labelled as 'Flat 1, 492 Archway Road' and was prepared in September 2018. The EPC lists the flat as being on the 'ground-floor' and being 30 sq m;
 - Flat A2 – labelled as 'Garden Flat, 492 Archway Road' and was prepared in July 2018. The EPC lists the flat as being on the 'ground-floor' and being 22 sq m;
 - Flat B – labelled as 'Flat B, 492 Archway Road' and was prepared in September 2018. The EPC lists the flat as being on the 'mid-floor' and being 52 sq m; and

- Flat C – labelled as ‘Flat C, 492 Archway Road’ and was prepared in July 2025. The EPC lists the flat as being on the ‘top-floor’ and being 40 sq m.
48. The context of the four EPCs together is important, as the ones for Flats B and C show clearly that they relate to the ‘mid-floor’ and ‘top-floor’ – in other words, the upper ground floor and first floor of the building. There are then two that relate to the ‘ground-floor’ – in other words the lower ground floor as described in this application.
49. While it is acknowledged that the EPCs for each of the flats do not demonstrate continuous occupation, they are clearly evidence of two separate and self-contained flats on the lower ground floor of the building and support the overall case made by the application. They should be afforded moderate weight in this context.

CONCLUSION AND NEXT STEPS

50. The evidence provided within this application is clear and unambiguous, and demonstrates well beyond the balance of probabilities threshold that the lower ground floor of 492 Archway Road has been used as two separate self-contained flats on a continuous basis for more than four years before the date of the application.
51. The evidence submitted is consistent and corroborates unequivocally the case made by the applicant, and addresses the issues raised by the Council in its decision on the previous application for a Lawful Development Certificate made previously by the applicant at this site.
52. Having regards to the appeal decisions referenced in this Planning Statement, it is clear that overall significant weight should be afforded to the evidence provided. Indeed, it is noted that in appeal ref. APP/Z4310/X/25/3365461 at 9 Rathbone Road, Wavertree, Liverpool L15 4HG, a Planning Inspector granted a Lawful Development Certificate (which sought to establish that the use was lawful on the basis it had started in advance of an Article 4 Direction covering the area coming into effect) on the basis of ASTs and email correspondence only. Paragraphs 9 and 10 of the decision letter (attached at **Appendix 4**) set out that the Planning Inspector took the following view:

The ASTAs [Assured Shorthold Tenancy Agreement] therefore indicate the property was occupied by 3 to 4 residents prior to the Article 4 Direction coming into effect. The use of the property as an HMO is further supported by the email correspondence from the Council's HMO Licensing Support Officer. This confirms the appeal property has had an HMO license from February 2019 to August 2021 and then February 2022 to March 2023. These licenses cover the relevant date of 17 June 2021.

Therefore, on the balance of probabilities, it has been sufficiently demonstrated that the appeal property was in use as a C4 Use Class HMO prior to the Article 4 Direction coming into effect and therefore had the benefit of planning permission.

53. Based on the evidence provided, there has clearly been no concealment of the use as two flats, and so s124(1) of the Localism Act 2011 – which inserted s171BA, 171BB and 171BC into the Town and Country Planning Act 1990 (as amended) to allow enforcement action, in England, to be taken against a breach of planning control when the time limits for taking action have expired and the breach has been concealed – does not apply.

54. As the evidence provided is clear and unambiguous, and there is no evidence available that contradicts the case made by the applicant, the appropriate and reasonable conclusion, applying the balance of probabilities test, is that the application should be granted, and a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990 (as amended) must be issued.
55. We respectfully request that the Council grants the Lawful Development Certificate sought at the earliest opportunity.

APPENDICES

- Appendix 1 – appeal decision ref. APP/G5180/X/25/3367733 at 56 Cudham Lane North, Cudham, Bromley, Sevenoaks TN14 7RA
- Appendix 2 – appeal decision ref. APP/U5930/X/23/3330289 at 30 Brierley Road, Leytonstone, London E11 4JE
- Appendix 3 – Government guidance *"How to Rent: The checklist for renting in England"* dated October 2023
- Appendix 4 – appeal decision ref. APP/Z4310/X/25/3365461 at 9 Rathbone Road, Wavertree, Liverpool L15 4HG



Appeal Decision

Hearing Held on 14 October 2025

Site visit made on 14 October 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2025

Appeal Ref: APP/G5180/X/25/3367733

56 Cudham Lane North, Cudham, Bromley, Sevenoaks TN14 7RA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Barry Cotman against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/24/03656/ELUD, dated 26 September 2024, was refused by notice dated 6 February 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: Use of building as a residential dwelling.
-

Summary of Decision

1. The appeal is allowed and a certificate of lawfulness is issued, in the terms set out below in the Formal Decision.

Preliminary Matters

2. A Case Management Conference was held virtually on 12 August 2025. This was purely procedural, and the merits of the appeal were not discussed.
3. The appeal was scheduled to be heard by means of Inquiry. The parties however did not consider that an Inquiry was necessary, and I was advised during the Case Management Conference that two of the appellant's witnesses could not be called for medical reasons. It was understood that the evidence could then not be tested under oath or by means of cross examination which means it could be afforded lesser weight. I however advised that I was still likely to have questions that would assist in my determination of the appeal and therefore a Hearing would provide an appropriate opportunity for this. The parties agreed to this course of action.

Main Issue

4. The main issue is whether the Council's refusal to grant a certificate of lawfulness is well founded.

Reasons

5. The site relates to a building located to the rear of No. 56 Cudham Lane North. In matters such as this, the onus is on the appellant to demonstrate their case

on the balance of probabilities that the building has been used as a dwelling continuously for a period of at least 4 years (a relevant period). My assessment is therefore fact specific, based upon the evidence before me.

6. The appeal application was originally made with 7 signed statutory declarations. The first was made by the owner of No. 56 Cudham Lane North and declares that the building was built over 20 years ago for his son to live in and was provided with electricity and running water and included a bathroom and kitchen. The father and son have then declared that the son has lived in the building for over 20 years. The remaining 5 declarations then declare knowledge about the son occupying the building for around 20 years or for as long as they have respectively had knowledge of the site. There is also a bill dated March 2019 relating to TV and/or internet sent to the son and which is addressed to 'The Cabin, 56 Cudham Lane North'. A further TV/internet bill dated February 2020 is also provided which is then addressed to the father at '56 Cudham Lane North'.
7. The appeal submission then contains a further 6 addendum declarations with the intention of strengthening the original statutory declarations. Those of the father and son explain the family and medical situation that led to the construction of the building and its occupation. They also declare that the son has lived continuously in the building apart from times when for medical reasons he was in hospital. It is also declared that '*under no circumstances would my Dad let me live in his house*'. An adjoining neighbour also declares that the son has occupied the building '*on a completely independent basis from his father*' and has done so to their knowledge since 2005 when they moved into their neighbouring property.
8. I afford the sworn evidence from these 3 parties considerable weight given their intimacy of knowledge. The remaining sworn evidence, whilst of lesser weight as they lack the intimacy of knowledge, do however corroborate the occupation of the building and highlight, amongst other things, that there is independent access via a separate gated driveway between Nos. 60 and 62.
9. During the Hearing I was advised that the building was erected in around 1997 and was first used by the son on an ancillary basis. This is corroborated by a Council investigation in 2003. In around 2005 it is said that the medical condition of the son was such that by this time there was no functional link between the dwelling at No.56 and where he resided. Whilst there was therefore a familial link, there is little evidence to contradict the appellants version of events and little case law to demonstrate why a building that was within part of a rear garden owned by a family member could not subsequently attain lawfulness as a dwelling.
10. The building itself is then located some distance from the dwelling at No.56 with the garden subdivided from the area where the building is located. Whilst there is a gate and during the Hearing I was advised that the son does access the building via the garden of No.56 when it suits him, there is nevertheless physical separation.
11. On the balance of probabilities there is accordingly physical and functional separation and therefore the building represents its own planning unit. Whilst only representing a snapshot in time, I could also see during my site visit that the building contained the necessary facilities required for day-to-day private domestic existence. This included, amongst other things, an area for sleeping

and sitting with wood burner, kitchenette with fridge and microwave, as well as a toilet and shower. This would also appear to be largely corroborated by earlier photographs referred to by the Council in its delegated report.

12. I accept that the internal condition of the building is now poor, and it does not contain a washing machine. However, because of the medical condition of the son and impact this had on the wider family, I find it less than probable that he either resided in the dwelling at No.56 with the family or had functional links that only rendered the building in incidental use. I also heard during the Hearing that the son lives a more unconventional lifestyle, and which was evident from my site visit. Such matters therefore do not cast doubt in my mind as to the appellant's version of events.
13. I also accept that there is little evidence as highlighted by the Council in respect of the payment of council tax or rent and that electricity and water are supplied via the dwelling at No.56. It is also said that there is little evidence of an official street number/postal address or electoral roll records. This is however not unusual in circumstances such as this and does not provide evidence that the building has not been physically occupied as a dwelling.
14. The statutory declarations are then sufficiently precise to demonstrate on the balance of probabilities that the building has been occupied independently for a continuous relevant period. This includes that of a neighbour who also attended the Hearing and spoke about his knowledge of the family and occupation by the son of the building. The statutory declarations are accordingly not vague or ambiguous and span a relevant period in most cases or otherwise corroborate the use of the building for the period in which those individuals have had knowledge of the site. There is also little evidence that the use of the building has been dormant such that a relevant period has not accrued.
15. Other appeal decisions provided by the Council then do little to cast doubt given the fact specific nature of my assessment.
16. As a matter of fact and degree the appellant has therefore demonstrated their case on the balance of probabilities that the building has been occupied as a dwelling for a relevant period and so the ability of the Council to take successful enforcement action has thus expired.

Conclusion

17. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawfulness was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

18. The appeal is allowed and attached to this decision is a certificate of lawfulness describing the existing development which is considered to be lawful.

Paul T Hocking

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Escott, Agent
Barry Cotman, Appellant
Jolyon Lilley, Neighbour

FOR THE LOCAL PLANNING AUTHORITY:

Roisin Finnegan, Counsel for the LPA
David Bord, Principal Planning Officer

DOCUMENTS:

1. Plan from the Appellant
2. Plan from the LPA



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 (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 26 September 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The appellant has demonstrated on the balance of probabilities the use of the building as a dwelling for a relevant period.

Signed

Paul T Hocking
Inspector

Date: 06 November 2025

Reference: APP/G5180/X/25/3367733

First Schedule

Use of building as a residential dwelling

Second Schedule

Land at 56 Cudham Lane North, Cudham, Bromley, Sevenoaks TN14 7RA

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 06 November 2025

by Paul T Hocking BA MSc MRTPI

Land at 56 Cudham Lane North, Cudham, Bromley, Sevenoaks TN14 7RA

Reference: APP/G5180/X/25/3367733

Scale: DO NOT SCALE





Appeal Decision

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2026

Appeal Ref: APP/U5930/X/23/3330289

30 Brierley Road, Leytonstone, London E11 4JE

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (“the Act”) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Ashley Nissim against Waltham Forest London Borough Council.
 - The application ref 231833 is dated 20 July 2023.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which an LDC is sought is use of property as a house in multiple occupation up to 4 persons (HMO) (Class 4).
-

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the existing use which is found to be lawful.

Preliminary Matters

2. The parties had been advised that a site visit would not be undertaken before the appeal was transferred to me. I have reviewed this and agree that a site visit would not assist in my deliberation of the facts pertinent to the main issue in the appeal.
3. The appellant’s evidence includes statements that he and 3 tenants made. While these are described as statutory declarations, they do not include the words required by section 20 of the Statutory Declarations Act 1835 and set out in the Schedule to that Act.¹ This means that, even though the statements were witnessed and signed in the presence of a solicitor, they cannot be given as much weight as statutory declarations with the required wording would.
4. It is plain that ‘Class 4’ in the description of the use means ‘Use Class C4’ and I shall determine the appeal using that more precise wording.

Main Issue

5. The Council has confirmed that if it had determined the application, it would have refused to issue an LDC. The main issue is whether that decision would have been well founded.
6. The responsibility for providing sufficient information to support an LDC appeal primarily rests with an appellant. However, if no other evidence contradicts or otherwise makes his version of events less than probable, and provided his evidence is sufficiently precise and unambiguous there is no good reason to withhold an LDC.

¹ I A.B. do solemnly and sincerely declare, that and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the year of the reign of his present Majesty, intituled the Statutory Declarations Act 1835.

Reasons

7. Section 191(2) of the Act provides that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them; and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. There is no evidence that the change of use to use as a small HMO contravenes any requirement of an enforcement notice, so only (a) needs to be considered further. The onus to show that enforcement action could not be taken lies with the appellant, to be demonstrated on the balance of probabilities.

What needs to be demonstrated

8. Enforcement action may be taken if any development defined in section 55 of the Act is carried out without planning permission. The definition includes “the making of any material change in the use of any buildings or other land.”
9. Prior to 1 October 2010, a change of use from use as a dwellinghouse within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (“the 1987 Order”) to use as an HMO by any number of residents was development requiring an express grant of planning permission. Since that date, the change of use of a dwellinghouse to use within Class C4 of the 1987 Order (a small HMO) has been permitted by other Orders, currently Article 3 and Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“Class L” of “the 2015 Order”).
10. However, a Direction that alters the effect of the 2015 Order within Waltham Forest came into force on 16 September 2014. As a result, any change of use of the appeal site from use as a dwellinghouse to use as a small HMO made on or after that date requires an express grant of planning permission, as it did before 1 October 2010. The Direction does not affect the permission Class L also grants for the change of use from use as a small HMO to use as a dwellinghouse.
11. Because Class L has only been in force since 1 October 2010, it could not permit the making of a change of use to use as a small HMO before that date. The appellant contends that he began renting 4 rooms to unrelated individuals, in other words changed the use of the premises to use as an HMO, in 2001 so by his admission that change of use cannot be lawful by reason of Class L.
12. The remaining route to acquiring immunity from enforcement action is via section 171B(3) of the Act. This requires that the change of use was made on or before 20 July 2013, 10 years before the date of the application, and that the small HMO use continued thereafter for not less than 10 years without significant interruption.

Whether the change of use was made on or before 20 July 2013

Room 1F

13. While the appellant claims that HMO use began in 2001, the earliest evidence produced is a tenancy agreement (TA) for this room dated 24 August 2006. The TA confirms the right of the tenant (tenant BB) to share the use of the kitchen, bathroom/WC, lounge and garden with other residents, indicative of use of the property as an HMO at that time. There is no other evidence relating to the use of the room until after 20 July 2013.

Room 1M

14. The earliest evidence of the use of this room is a TA dated 8 April 2009, which confirms the right of the tenant (tenant CF) to share the use of the kitchen, bathroom/WC, lounge and garden with other residents, indicative of use as an HMO then. The appellant's timeline document does not reference this TA, but it stands in its own right, corroborated by tenant CF's declaration, which states that he moved in 6 days later, on 14 April 2009. There is no other contemporary evidence relating to the room on or before 20 July 2013.

Room 1R

15. Indirect evidence that a tenancy had existed on or before 20 July 2013 is found in an email from the appellant to a tenant dated 7 August 2013, which refers to a contract signed on 15 May 2010. However, a copy of that contract has not been produced, nor has any other direct evidence of the use of the room on or before 20 July 2013.

Room GF

16. The appellant states that tenancies have existed for this room since 21 May 2012 but no TA or other evidence specific to that room from before 20 July 2013 has been provided.

Other considerations

17. The only other evidence pre-dating 20 July 2013 is an email from the appellant to a contractor, most likely a plumber, about work to be carried out at the property in October 2012. The email names 3 tenants and provides their contact details but does not describe how they were using the premises at that time. However, their names appear to correspond to the people named by the appellant as occupiers of Rooms GF, 1R and 1F (tenant BB) at that time and on 20 July 2013.
18. While absences of TAs and other contemporary documentary evidence are noted, the full range of the presented evidence, not least the signed declarations, must be considered. Overall, it includes precise and unambiguous evidence that Room 1F was let on terms consistent with use as an HMO on or before 20 July 2013. While there is less evidence for other rooms, it is sufficient to demonstrate, on the balance of probabilities, that Room 1M was also let on terms consistent with use as an HMO on or before 20 July 2013 and indicates the same for Room 1R. Viewed collectively, this is sufficient to demonstrate, on the balance of probabilities, that the change of use of the premises to use as a small HMO was instituted on or before 20 July 2013, despite the shortcoming in the wording of relevant declarations.

Whether the use continued thereafter without significant interruption

Room 1F

19. Tenant BB named in the 24 August 2006 TA signed a similar TA for the same room, with the same shared use rights, on 1 May 2015. While his signed declaration gave that room as his address, it states that he lived in Room 1R continuously. Having regard to all evidence, I am satisfied that the reference to Room 1R was an error.

20. Turning to the content of the declaration, tenant BB states that the property had continually been rented out as 3 or more rooms to unrelated people on separate contracts since he moved in on 1 September 2006. He provides the names of the tenants for Rooms 1M (tenant CF), 1R and GF from 2014 onward and their approximate periods of occupation, tallying with the rent accounts or other evidence provided by the appellant.
21. Viewed as a whole, tenant BB's declaration and the TAs he signed demonstrate continuous use of Room 1F on terms consistent with use as an HMO from 1 September 2006 to the date of the application, a period of over 16 years.

Room 1M

22. Tenant CF named in the 8 April 2009 TA signed similar TAs for the same room, with the same shared use rights on 13 September 2013, 4 April 2015 and 14 November 2021. He declared that the property had been continuously rented out as 3 or more rooms to unrelated people on separate contracts since 14 April 2009. He provides the names of the tenants for Rooms 1F (tenant BB), 1R and GF from 2014 onward and their approximate periods of occupation, tallying with the rent account and other evidence provided by the appellant.
23. Viewed as a whole, tenant CF's declaration and the TAs he signed demonstrate continuous use of Room 1M on terms consistent with use as an HMO from 14 April 2009 to the date of the application, a period of over 14 years.

Room 1R

24. The appellant identifies 3 different occupiers of this room between 14 September 2013 and the application date. The first of these, named in a TA signed on 13 September 2013, is the recipient of the email mentioned in paragraph 14 above, which suggested he had occupied the room since May 2010. That tenant left in March 2020, after which the room was unoccupied for some 6 months. Noting that this break in occupancy affected only one room and coincided with the Covid-19 pandemic, it is not a significant interruption to the claimed small HMO use.
25. There is some evidence of a tenancy between September 2020 and January 2021, after which the room was advertised along with Room GF. A new TA was signed on 29 March 2021 and the appellant states that the tenant named in it was still in occupation at the time of the application.

Room GF

26. The appellant identifies 4 different occupiers of this room between 21 May 2012 and the application date. The room was vacated in November 2020 and the appellant states that it was advertised that month and again, with Room 1R, in March 2021, with a new TA signed that month. As this was also during the Covid-19 pandemic, and as the use of the whole property must be considered, the length of the vacancy is not a significant interruption to the claimed small HMO use.
27. A signed declaration made by the most recent occupier of Room GF states that the property had continually been rented out as 3 or more rooms to unrelated people since she moved there on 7 April 2021.

Other considerations

28. Some dates given in the declarations do not tally with other evidence. For example, tenant CF declares he has lived in Room 1M since April 2009, but the declarations made by the appellant and tenant BB only state that he lived there since 2014 or “since prior to 2014.” This appears to be because it was believed that continuity of use would need to be demonstrated with reference to when the Direction came into force, not over any 10-year period beginning on or before 20 July 2013.
29. The Council questions whether the tenancies included use of shared facilities, but the TAs provided do confirm shared use of the kitchen, bathroom/WC, lounge and garden. Although the declarations do not state this detail, it does not make the evidence of the TAs insufficient.
30. The Council also questions whether identified repair and refurbishment work resulted in any break in occupancy. There is no evidence that the works required any tenant to move out or were so lengthy that, had any break occurred, it would have amounted to a significant interruption to the use. While bank statements recording payment of rent do not identify the appeal premises, the appellant is correct that the names and dates can be cross-referenced to TAs and other evidence specific to it.
31. I also recognise that the presented utility bills and meter readings do not confirm that the property was in use as an HMO. However, I would not expect any utility bill to do much more than specify the address of the property, what was consumed over the relevant period, and the name and address of the person being billed.
32. While I note the Council’s criticism of some evidence on the basis that it does not demonstrate continuous use of the property as an HMO by 3 to 6 unrelated persons, the LDC is sought for use as an HMO by up to 4 persons. In particular, the definition of a small HMO within Class C4 of the 1987 Order and the definition of an HMO in the Housing Act 2004 do not specify a minimum of 3 residents.
33. The evidence of the TAs for Rooms 1F and 1M and the declarations made by tenants BB and CF who signed them, along with the supporting documentary evidence provided by the appellant, is precise and unambiguous. I find it is sufficient to demonstrate that those 2 rooms were concurrently occupied on terms indicating use as an HMO for over 14 years.
34. While the evidence for the use of the other 2 rooms is less compelling, it is instructive to consider the terms of the TAs that have been substantiated by tenants BB and CF in the context of the layout of the property and how it could be used by any other residents.
35. Rooms 1F and 1M were concurrently occupied on tenancies that granted tenants BB and CF shared use of the kitchen, bathroom/WC, lounge and garden for over 14 years. As the property only has 1 kitchen and 1 bathroom/WC, any residents of Rooms 1R and GF during those 14 years must have shared those facilities on a communal basis with tenants BB and CF, consistent with HMO use. Seen in this way, the evidence demonstrates that the use of the premises as an HMO continued for over 10 years while tenants BB and CF occupied Rooms 1F and 1M, despite any shortcoming in the wording of their declarations. There is no evidence that the HMO use was ever carried out by more than 4 people.

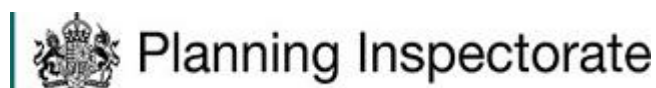
36. Furthermore, there is no evidence that any change of use from use as a small HMO to use as a dwellinghouse defined by Class C3 of the 1987 Order occurred after 1 October 2010, when the predecessor to Class L of the 2015 Order came into force.

Conclusion

37. For the reasons given above I conclude, on the evidence now available that, had the Council refused to grant an LDC in respect of use of property as a house in multiple occupation up to 4 persons (HMO) (Use Class C4) that refusal would not have been well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the Act.

Mark Harbottle

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 (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 20 July 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The change of use of the property to use as a house in multiple occupation by not more than 4 people was made before 20 July 2013 and the use continued thereafter without significant interruption until the date of the application.

Signed

Mark Harbottle

INSPECTOR

Date: 28 January 2026

Reference: APP/U5930/X/23/3330289

First Schedule

Use of property as a house in multiple occupation [by] up to 4 persons (HMO) (Use Class C4)

Second Schedule

Land at 30 Brierley Road, Leytonstone, London E11 4JE

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in this decision dated: 28 January 2026

by Mark Harbottle

Land at: 30 Brierley Road, Leytonstone, London E11 4JE

Reference: APP/U5930/X/23/3330289

Scale: Not to Scale





HM Government

How to rent

The checklist for
renting in England

October 2023



Contents

1. Before you start	3	5. At the end of the fixed period	12
Key questions	3	If you want to stay	12
Ways to rent a property	4	If you or the landlord want to end the tenancy	12
2. Looking for your new home	5	6. If things go wrong	14
Things to check	5	Protection from eviction	15
Licensing requirements	7	7. Further sources of information	17
3. When you've found a place	8		
Check the paperwork	8		
Things the landlord must provide you with	8		
Check if the property is suitable for your needs if you are disabled	9		
4. Living in your rented home	10		
Things the tenant must do	10		
Things the tenant should do	10		
Things the landlord must do	11		
Things the landlord should do	11		

If you have downloaded a copy of this guidance, please check you have the most up-to-date version by following this link:

[GOV.UK/government/publications/how-to-rent](https://gov.uk/government/publications/how-to-rent)

The landlord or the letting agent should give the current version of this guide to the tenant when a new assured shorthold tenancy starts. There is no requirement for them to provide the document again if the assured shorthold tenancy is renewed unless the document has been updated.

Who is this guide for?

This guide is for people who are renting a home privately under an assured shorthold tenancy, either direct from a landlord or through a letting agency. Most of it will also apply if you are in a shared property but in certain cases, [your rights and responsibilities will vary](#).

The guide does not cover [lodgers](#) (people who live with their landlord) or people with [licences](#) (such as many property guardians – see this [specific guidance on property guardians](#)), nor tenants where the property is not their main or only home.



1. Before you start

Key questions

- **Is the landlord or letting agent trying to charge any fees for holding the property, viewing the property or setting up a tenancy agreement?** Since 1 June 2019, most fees charged in connection with a tenancy are banned. A charge to reserve a property is permitted but it must be refundable and it cannot equate to more than one week's rent. Viewing fees and tenancy set-up fees are not allowed. See the '[Permitted fees](#)' section below for more details.
- **How much is the deposit?** Since 1 June 2019, there has been a cap on the deposit that the tenant is required to pay at the start of the tenancy. If the total annual rent is less than £50,000, the maximum deposit is five weeks' rent. If the annual rent is £50,000 or above, the maximum deposit is six weeks' rent. The deposit must be refundable at the end of the tenancy, usually subject to the rent being paid and the property remaining in good condition, and it must be 'protected' during the tenancy. See the '[Deposit protection](#)' section below.
- **How long do you want the tenancy for?** The landlord must allow you to stay in the property for a minimum of six months. Most landlords offer tenancies for a fixed term of six or 12 months. However, it is possible to negotiate a longer tenancy, or you could agree to a tenancy which rolls over on a weekly or monthly basis. These tenancies have no fixed end date after the minimum of six months.
- **What can you afford?** Think about [how much rent you can afford to pay](#). 35% of your take-home pay is the most that many people can afford, but this depends on what your other outgoings are (for example, whether you have children).
- **Are you are entitled to Housing Benefit or Universal Credit?** If so, you may get help with all or part of your rent. If you are renting from a private landlord, you may receive up to the Local Housing Allowance rate to help with the cost of rent. Check with this [online calculator](#) to see if you can afford to live in the area you want. You should also look at this [guidance on managing rent payments on Universal Credit](#).
- **Which area would you like to live in and how are you going to look for a rented home?** The larger the area you are prepared to look in, the better the chance of finding the right home for you.
- **Do you have your documents ready?** Landlords and agents will want to confirm your identity, [immigration status](#), credit history and possibly employment status.
- **Do you have the right to rent in the UK?** Landlords in England must check that all people aged 18 or over have the right to rent before the start date of the tenancy agreement. There are three types of right to rent checks: a manual document-based check, a check using Identity Verification Technology via the services of an identity service provider, or a check via the Home Office online checking service. Your landlord can't insist which option you choose but not everyone can use the online service. [Further information on how to prove your right to rent to a landlord](#) can be found on GOV.UK.
- **Will you need a rent guarantee?** Some landlords might ask someone to [guarantee your rent](#). If you don't have a guarantor, you can ask [Shelter](#) for advice.
- **Do you need to make changes to the property?** If you are disabled or have a long-term condition and think you may need to make changes to the property to allow you to live independently, discuss these with your landlord or agent.

Ways to rent a property

Direct from the landlord

Look for landlords who belong to an [accreditation scheme](#). Accreditation schemes provide training and support to landlords in fulfilling their legal and ethical responsibilities. Your local council can advise you about accreditation schemes operating in your area.

The [National Residential Landlords Association](#) and the [Guild of Residential Landlords](#) run national schemes.

If your landlord lives outside the UK, you may be responsible for paying tax on the rent to HM Revenue and Customs. For advice, call their non-resident landlord scheme helpline on 0300 322 9433.



Through a letting agent

Letting agents must be members of a redress scheme. You should check which [independent redress scheme](#) the agent is a member of in case you have an unresolved dispute.

If they receive money from you, such as rent payments, you should also check they are a member of a client money protection scheme. See a [list of approved schemes](#). By law, this information should also be clearly visible to you at the agent's premises and on their website.

Reputable agents are often accredited through a professional body such as [the Guild of Property Professionals](#), [Propertymark](#), [Safeagent](#), [the Royal Institution of Chartered Surveyors](#) or [the UK Association of Letting Agents](#).

If your landlord lives outside the UK, the letting agent will be responsible for paying any tax due on the rent to HM Revenue and Customs.



Watch out for scams!

Be clear who you are handing money over to, and why.

2. Looking for your new home

Things to check

- **Deposit cap.** Check that the tenancy deposit you're being asked for is not more than five weeks' rent where annual rent is less than £50,000, or six weeks' rent where annual rent is more than £50,000.
- **Deposit protection.** If the landlord asks for a deposit, check that it will be protected in a [government-approved scheme](#). Some schemes hold the money, and some insure it. You may be able to access a [bond or guarantee scheme](#) that will help you put the deposit together. Contact your local council for advice.
- **You may be offered a deposit replacement product as an alternative to a cash deposit.** A landlord or agent cannot require you to use a deposit replacement product but may allow it as an option without breaking the Tenant Fees Act. There are several different deposit replacement products available. Depending on the product, you may need to pay a non-refundable fee upfront (often equivalent to one week's rent) and/or a monthly payment for the duration of your tenancy. With most products, you will still be responsible for the costs of any damages incurred at the end of the tenancy or required to pay an excess on any claim for damages or unpaid rent. It is strongly advised to always check the terms and conditions and to see if it is regulated by the [Financial Conduct Authority](#).
- **Length of tenancy.** There is usually a fixed period of six or 12 months. If you want more security, it may be worth asking whether the landlord is willing to agree to a longer fixed period. Alternatively, you may be offered a weekly or monthly assured shorthold tenancy which does not last for a fixed period. Even with those tenancies, the landlord must allow you to stay for a minimum of six months.
- **Smoking and pets.** Check if there are any rules about them, as well as for other things such as keeping a bike, dealing with refuse and recycling.
- **Bills.** Check who is responsible for bills such as electricity, gas, water and council tax. Usually, the tenant pays for these bills. See [advice on paying bills](#).
- **Fixtures and fittings.** Check you are happy with them, as it is unlikely that you will be able to get them changed once you have moved in.
- **Smoke alarms and carbon monoxide detectors.** Landlords must make sure there is at least one smoke alarm on every floor used as living accommodation, and carbon monoxide alarms in all rooms that have a fixed combustion appliance and are used as living accommodation.
- **Safety.** Check that the property is safe to live in, and use the [‘How to rent a safe home’](#) guide to help you identify possible hazards.
- **Fitness for human habitation.** Your property must be safe, healthy and free from things that could cause serious harm. If not, you can take your landlord to court. For more information, see the [Homes \(Fitness for Human Habitation\) Act 2018 guide for tenants](#). You should also check whether your tenancy agreement excuses you from paying rent if the building becomes unfit to live in due to, for example, a fire or flood.
- **Flood risk.** Your area may be at risk of flooding. [Check the long-term flood risk](#) to find out.

Check who your landlord is

Make sure you have the name of your landlord and an address in England or Wales where you can serve them notices in writing. Landlords are obliged to provide you with this information and the rent is not 'lawfully due' until they do so.

If the property is a flat, ask whether the landlord is the owner or leaseholder of the flat, and ask whether the freeholder – for example, the owner of the block – has agreed to the flat being let out. If the landlord has a mortgage, ask whether the mortgage company has agreed to the letting. The landlord may not need the freeholder's consent but if there is a mortgage, the lender's consent will always be needed. Be aware that you may have to leave the property if the landlord does not keep up the mortgage payments.

If the property is a house, ask whether the landlord is the owner, whether the landlord has a mortgage and whether the mortgage company has agreed to the letting. You may have to leave the property if the landlord does not keep up the mortgage payments.

If the landlord is not the property owner and they claim to be a tenant, a family member or a friend, be very cautious as it could be an unlawful sub-letting.

Permitted fees

The government's [guidance on the Tenant Fees Act](#) contains information about the fees that letting agents and landlords are prohibited to charge tenants, as well as the fees that are permitted.

Permitted fees are as follows:

- ☐ rent
- ☐ a refundable tenancy deposit capped at no more than five weeks' rent where the total annual rent is less than £50,000, or six weeks' rent where the total annual rent is £50,000 or above
- ☐ a refundable holding deposit (to reserve a property) capped at no more than one week's rent
- ☐ payments associated with early termination of the tenancy, when requested by the tenant
- ☐ payments capped at £50 (or reasonably incurred costs, if higher) for the variation, assignment or novation of a tenancy
- ☐ payments for utilities, communication services, TV licence and council tax
- ☐ a default fee for late payment of rent and replacement of a lost key/security device giving access to the housing, where required under a tenancy agreement

All other fees, including the following, are banned:

- ☐ viewing fees – any charge for viewing the property
- ☐ tenancy set-up fees – any charge for setting up the tenancy or contracts
- ☐ check out fees – any charge for leaving the property
- ☐ third party fees – any charge for actions done by someone other than the landlord or tenant but that the landlord must pay for

Licensing requirements

Houses in multiple occupation

Houses in multiple occupation are usually properties where three or more unrelated people share facilities such as a kitchen or bathroom.

Some [houses in multiple occupation must be licensed](#). Check that your landlord has the correct licence. There are extra requirements for landlords of houses in multiple occupation whether they need a licence or not. Go to [GOV.UK/private-renting/houses-in-multiple-occupation](#) for more information.

Selective licensing

Some single-family dwellings may also need to be licensed. Check with your local council whether the house is within a selective licensing scheme area. Selective licensing requires all landlords of privately rented housing in a designated area to obtain a licence for each individual property. It gives the local council powers to inspect properties and enforce standards to address specific property issues.



3. When you've found a place

Check the paperwork

- **Tenancy agreement.** Make sure you have a written tenancy agreement and read it carefully to understand your rights and responsibilities before you sign it. The landlord or agent usually provides one, but you can ask them to consider using a different version instead. The government has published a [model tenancy agreement](#) which can be downloaded for free. If you have any concerns about the agreement, [seek advice before](#) you sign. If you are unhappy with the tenancy agreement, the Tenant Fees Act allows tenants to walk away from unfair terms without forfeiting the holding deposit.
- **Inventory.** Agree an inventory (or check-in report) with your landlord before you move in and, as an extra safeguard, make sure that you take photos. This will make things easier if there is a dispute about the deposit at the end of the tenancy. If you are happy with the inventory, sign it and keep a copy. From 1 June 2019, landlords or letting agents cannot charge certain fees. See the government's [guidance on the Tenant Fees Act](#) for more information.
- **Meter readings.** Remember to take meter readings when you move in. Take a photo showing the meter reading and the date and time, if possible. This will help make sure you don't pay for the previous tenant's bills.
- **Contact details.** Make sure that you have the correct contact details for the landlord or agent, including a telephone number you can use in case of an emergency. You are legally entitled to know the name and address of your landlord.
- **Code of practice.** Ask whether your landlord or agent has signed a code of practice, which may give you additional assurance about their conduct and practices.

Things the landlord must provide you with

- **A copy of the guide,** 'How to rent: the checklist for renting in England', either as a hard copy or, with your agreement, via email as a PDF attachment.
- **A gas safety certificate** before you occupy the property. They must also give you a copy of the new certificate after each annual gas safety check, if there is a gas installation or appliance.
- **Deposit paperwork.** If you have provided a deposit, the landlord must protect it in a government-approved scheme within 30 days and give you prescribed information about it. Make sure you get the official information from your landlord, and that you understand how to get your money back at the end of the tenancy. Keep this information safe as you will need it later.
- **The energy performance certificate,** which contains the energy performance rating of the property you are renting, free of charge at the onset of your tenancy. As of April 2020, all privately rented properties must have an energy performance rating of E or above (unless a valid exemption applies) before being let out. You can also [search online for the energy performance certificate](#) and check its rating.
- **A report that shows the condition of the property's electrical installations.** The landlord also has to give this to the local council if they ask for it. The electrical wiring, sockets, consumer units (fuse boxes) and other fixed electrical parts in rented homes must be inspected and tested every five years, or more often if the inspector thinks necessary. Throughout the whole time a tenant is living at the property, national electrical safety standards must be met.
- **Evidence that smoke and carbon monoxide alarms are in working order at the start of the tenancy.** Tenants should then regularly check they are working.

Check if the property is suitable for your needs if you are disabled

- **Accessibility.** If you are disabled or have a long-term condition, you can [request reasonable adjustments](#) from your landlord or agent. This could include changes to the terms of your agreement, or home adaptations and adjustments to common parts of a building to make your home accessible to you. Your landlord or agent should respond in a reasonable timeframe and if they refuse a request, they should explain why they do not consider it reasonable. Your landlord can ask you to pay for the changes you asked for. However, you can check to see if you are eligible and apply for a [Disabled Facilities Grant](#) to help with the cost of adaptations. Your landlord can also apply for funding on your behalf.

4. Living in your rented home

Things the tenant must do

- **Pay the rent on time.** If your rent is more than 14 days late, you could be liable for a default fee. This is limited by the Tenant Fees Act to interest on the outstanding amount, capped at 3% above Bank of England base rates. The landlord or agent cannot charge any other fees. For more information, please read the [government's guidance on the Tenant Fees Act](#). Further, you could lose your home because you have breached your tenancy agreement. If you have problems, GOV.UK has links to [further advice on rent arrears](#). Also check out these [practical steps for paying your rent on time](#).
- **Pay any other bills** that you are responsible for on time, such as council tax, gas, electricity and water bills. If you pay the gas or electricity bills, you can [choose your own energy supplier](#).
- **Look after the property.** Get your landlord's permission before attempting repairs or decorating. It's worth getting contents insurance to cover your possessions too, because the landlord's insurance won't cover your things.
- **Be considerate to the neighbours.** Anti-social behaviour may be a reason for your landlord to evict you.
- **Don't take in a lodger** or sub-let without checking whether you need permission from your landlord.

Things the tenant should do

- Make sure you know how to operate the boiler and other appliances and know where the stopcock, fuse box and any meters are located.
- Regularly test your smoke alarms and carbon monoxide detectors – at least once a month.
- Report any need for repairs to your landlord. Failure to report the need for repairs could be a breach of your tenancy agreement. In extreme circumstances there may be a risk to your deposit if a minor repair turns into a major problem because you did not report it.
- Consider obtaining insurance for your contents and belongings. The landlord will usually have insurance for the property but it will not cover anything that belongs to you. If your area is at [risk of flooding](#), make sure your insurance covers this.
- Consider having smart meters installed. Smart meters can help you keep an eye on your energy bills and make changes to save money. If the energy bills are in your name or you prepay for your energy, you can choose to have smart meters installed, though you should check your tenancy agreement first and let your landlord know. If your tenancy agreement says you need your landlord's permission to alter metering at your property, they should not unreasonably prevent it. Smart Energy GB has independent information about the [benefits of smart meters for tenants](#) and how to ask your supplier for the installation. If your landlord pays the energy bills, you can ask them to have smart meters installed.
- [Register to vote at your new address.](#)

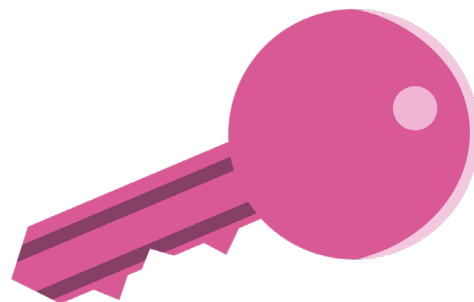
Things the landlord must do

- Maintain the structure and exterior of the property.
- Ensure the property is free from serious hazards throughout your tenancy.
- Fit smoke alarms on every floor and carbon monoxide alarms in rooms with fixed combustion appliances such as boilers, and make sure they are working at the start of your tenancy. If they are not there, ask your landlord to install them.
- Deal with any problems with the water, electricity and gas supply.
- Maintain any appliances and furniture they have supplied.
- Carry out most [repairs](#). If something is not working, [report it to your landlord or agent](#) as soon as you can.
- Arrange an annual [gas safety check](#) by a Gas Safe engineer (where there are any gas appliances).
- Arrange an electrical safety check by a qualified and competent person every five years (this applies to new tenancies from 1 July 2020 and existing tenancies from 1 April 2021).
- Consider requests for reasonable adjustments from tenants who have a disability or long-term condition. Reasonable adjustments could include changes to the terms of your tenancy or allowing adaptations or adjustments to your home or common parts of the building. Landlords (or agents) must respond to your request in a reasonable timeframe. If they refuse a request they must explain why. [Foundations](#) can offer advice on getting home adaptations.
- Seek your permission to access your home and give at least 24 hours' notice of proposed visits for things like repairs. Those visits should take place at reasonable times – neither the landlord nor the letting agent is entitled to enter your home without your express permission.

- Get a licence for the property if it is a [licensable property](#).
- Ensure the property is at a [minimum of energy efficiency band E](#) (unless a valid exemption applies).
- Carry out a Right to Rent check.

Things the landlord should do

- Insure the building to cover the costs of any damage from flood or fire.
- Check regularly to ensure that all products, fixtures and fittings are safe and that there haven't been any product recalls. Help is available at [the Royal Society for the Prevention of Accidents](#), [the Chartered Trading Standards Institute](#) and [the Child Accident Prevention Trust](#).
- Ensure blinds are safe by design and they do not have looped cords to prevent accidents. This is especially important in a child's bedroom. More information can be found on the [Royal Society for the Prevention of Accidents' website](#).



5. At the end of the fixed period

If you want to stay

If you want to extend your tenancy after any initial fixed period, there are a number of important issues to consider. Check [Shelter's website](#) for advice.

Do you want to sign up to a new fixed term?

If not, you will be on a 'rolling periodic tenancy'. This means you carry on as before but with no fixed term. Your tenancy agreement should say how much notice you must give the landlord if you want to leave the property – one month's notice is typical. Shelter publishes advice on how you can end your tenancy.

Your landlord might want to increase your rent

Your landlord can increase your rent by agreement, or as set out in your tenancy agreement, or by serving you with a [notice proposing a new rent](#).

If your landlord has served you with a notice proposing a new rent, you can make an application to [challenge the proposed rent in the tribunal](#).

The deposit cap introduced by the Tenant Fees Act 2019 means you may be entitled to a partial refund of your tenancy deposit. The government's [guidance on the Tenant Fees Act](#) explains whether this affects you.

If you or the landlord want to end the tenancy

The government has announced that it plans to put an end to 'no fault' section 21 evictions by changing existing legislation. Landlords will still be able to issue you with a section 21 notice until new legislation comes into effect. If you receive a section 21 notice from your landlord, seek advice from [Shelter](#) or [Citizens Advice](#). If you are eligible for legal aid, you can also contact [Civil Legal Advice](#) for free and confidential advice.

There are things that both landlords and tenants must do at the end of the tenancy.

Giving notice

It is a legal requirement for landlords to give you [proper notice if they want you to leave](#). Normally, the landlord must allow any fixed period of the tenancy to expire and they must give you the correct period of notice, which varies depending on the type of tenancy and the reason they want you to leave.

If you have been served with a notice that your landlord wants you to leave, you should read it at once. The notice should contain helpful information. Acting on it straight away may, in certain circumstances, allow you to keep your home. If you are unsure how to respond or worried that you will become homeless, you should access advice and support as soon as possible – for example, through contacting [Citizens Advice](#) or [Shelter](#), who can provide free, expert advice on your individual circumstances. If you are eligible for legal aid, you can also contact [Civil Legal Advice](#) for free and confidential advice.

If you do not leave at the end of the notice period, your landlord will need to apply for a court order to evict you, and must arrange for a warrant of possession to be executed by bailiffs if you remain in your home after the date given in the order.

However, if you seek advice and support as early as possible, it is more likely that you will be able to resolve any issues and remain in your home.

For more information about your rights and responsibilities when your landlord wants you to leave your home, see '[Understanding the possession action process: A guide for private residential tenants in England and Wales](#)'.

If you want to end the tenancy

Your tenancy agreement should say how much notice you must give the landlord if you want to leave the property. One month's notice is typical, and you must give it in writing. Make sure you keep a copy of the document and a record of when it was sent. Please see the 'If things go wrong' section below if you want to leave sooner than the notice period set out in the tenancy agreement.

Rent

Make sure that your rent payments are up to date. Do not keep back rent because you think that it will be taken out of the deposit.

Bills

Do not leave bills unpaid. This might have an impact on your references and credit rating.

Clear up

Remove all your possessions, clean the house, dispose of rubbish and take meter readings. Try to leave the property in the same condition that you found it in. Check this against your copy of the inventory and take photos that show how you have left the property.

Dispose of any unwanted furniture via a local collection service.

Return the keys

Return all sets of keys that were provided. If you do not, the landlord may charge you for changing the locks.

Inspection

Try to be present when the property is inspected to check whether any of the tenancy deposit should be deducted to cover damage. If you do not agree with proposed deductions, contact the relevant [deposit protection scheme](#).

6. If things go wrong

Most problems can be resolved quickly and easily by talking to your landlord or letting agent.

There are often legal protections in place for the most common problems that you may experience during the tenancy. The following links will tell you what they are or where to look for help.

- If you have a complaint about a letting agent's service and they don't resolve your complaint, you can complain to an [independent redress scheme](#). Letting agents must be members of a government-approved redress scheme.
- If you want to leave the property within the fixed term or more quickly than permitted in the tenancy agreement, you should discuss this with your landlord. If your landlord or letting agent agrees to end the tenancy early, you should make sure that this is clearly set out in writing and that you return all your sets of keys. If you do not, your landlord may make a court claim against you to gain possession of the property.
- You could be charged if you want to end the tenancy early, although this fee must not exceed the loss incurred by the landlord or the reasonable costs to your letting agent if you are renting through them. Unless or until a suitable replacement tenant is found, you will be liable for rent until your fixed-term agreement has ended or, in the case of a statutory periodic tenancy, until the required notice period under your tenancy agreement has expired. The government's [guidance on the Tenant Fees Act](#) contains more information.
- If you are having financial problems or are falling into rent arrears, speak to your landlord as they may be helpful and are likely to be more sympathetic if you talk to them early on. Should you need further help, contact your local council, [Citizens Advice](#) or [Shelter](#) as soon as possible. If you are eligible for legal aid, you can also contact [Civil Legal Advice](#) for free and confidential advice. Also check out these [practical steps for managing your rent payments](#).
- If the property is in an unsafe condition and your landlord won't repair it, contact your [local council](#). They have powers to make landlords deal with serious health and safety hazards. You can also report this to your local Trading Standards office.
- You may be able to take your landlord to court yourself if you think the property is not fit for habitation, under the [Homes \(Fitness for Human Habitation\) Act 2018](#). The court can make the landlord carry out repairs and pay you compensation. You may also be able to take your landlord to court if they do not carry out some repairs. For more information, please see [Shelter's advice](#) on section 11 of the Landlord and Tenant Act 1985.
- If you have a serious complaint about the property and your local council has sent a notice to the landlord telling them to make repairs, [your landlord may not be able to evict you](#) with a section 21 notice (no-fault eviction) for six months after the council's notice. You can still be [evicted with a section 8 notice](#) if you break the terms of your tenancy.
- Failure to comply with a statutory notice is an offence. Depending on the notice, local councils may prosecute or fine the landlord up to £30,000. Local councils have powers to apply for [banning orders](#) which prevent landlords or property agents from managing or letting out property if they are convicted of certain offences. If a landlord or property agent receives a banning order, they will be added to the Database of Rogue Landlords and Property Agents. There is a [specific process for banning order offences](#).

- If a landlord or letting agent charges you a prohibited payment (a banned fee according to the Tenant Fees Act 2019) or unlawfully keeps a holding deposit, they could be liable for a fine of up to £5,000. If there are multiple breaches, they could be liable for a fine of up to £30,000 as an alternative to prosecution. Local councils are responsible for issuing these fines. Landlords or letting agents cannot rely on giving notice under section 21 to obtain a possession order if they have not repaid any unlawful fees or deposits they have charged under the terms of the Tenant Fees Act. Tenants are also able to make an application to the tribunal to recover a prohibited payment, which can order a landlord or agent to repay a payment which has been charged unlawfully. The government's [guidance on the Tenant Fees Act](#) contains more information.
- If your landlord is making unannounced visits or harassing you, contact your local council. If more urgent, dial 999.
- If you are being [forced out illegally](#), contact your local council. [Shelter](#) and [Civil Legal Advice](#) may also be able to help you. If your landlord wants you to leave the property, they must notify you in writing, with the [right amount of notice](#). You can only be legally removed from the property if your landlord has a court order for possession and a warrant is executed by court bailiffs.
- If you live with your partner and you separate, you may have the right to carry on living in your home.
- If you are concerned about finding another place to live, contact the housing department of your local council straight away. Depending on your circumstances, they may have a legal duty to help you find accommodation and they can also provide advice. The local council should not wait until you are evicted before taking action to help you.

Protection from eviction

Landlords must follow strict procedures if they want you to leave your home. They may be guilty of harassing or illegally evicting you if they do not follow the correct procedures.

Landlords must provide you with the correct notice period and they can only legally remove you from your home by obtaining a court order for possession and arranging for a warrant to be executed by court bailiffs. See '[Understanding the possession action process: A guide for private residential tenants in England and Wales](#)'.

For anyone facing the loss of their home, free Government funded legal advice and representation (legal aid) is available through the Housing Loss Prevention Advice Service. If you receive written notice that someone is seeking possession of your home you should make contact with the Housing Loss Prevention Advice Service at <https://www.gov.uk/guidance/legal-aid-for-possession-proceedings>.

Government funded legal advice is also available for other housing and debt matters. You can have an initial discussion with an adviser to find out about the support available by contacting [Civil Legal Advice \(CLA\)](#) or by visiting find-legal-advice.justice.gov.uk and entering the property post code and tick the category 'housing'.

Rent repayment orders

Rent repayment orders require a landlord to repay a specified amount of rent to a tenant and/or a local council, where there has been an illegal eviction or failure to licence a property that requires licensing.

Rent repayment orders also cover breach of a banning order or failure to comply with certain statutory notices. Where a rent repayment order is made, local councils may keep the money if the tenant's rent was paid by state benefits. Where a tenant has paid rent themselves, the money is returned to them. If benefits covered part of the rent, the amount is paid back pro-rata to the local council and the tenant.

[More information on how to apply for a rent repayment order](#) is available on GOV.UK.

If you are reading a print version of this guide and need more information on the links, please contact us on 0303 444 0000 or at 2 Marsham Street, London, SW1P 4DF.

7. Further sources of information

Read further information about [landlord and tenant rights and responsibilities](#).

Read the government's [guidance on the Tenant Fees Act](#). This includes:

- what the Tenant Fees Act covers
- when it applies and how it will affect you
- helpful questions and answers

Tenancy deposit protection schemes

Your landlord must protect your deposit with a government-backed tenancy deposit scheme.

- ☐ [Deposit Protection Service](#)
- ☐ [MyDeposits](#)
- ☐ [Tenancy Deposit Scheme](#)

Client money protection schemes

Your agent must protect money such as rent payments through membership of a government-approved client [money protection scheme](#).

Letting agent redress schemes

Every letting agent must belong to a government-approved redress scheme. Use the links below to find out which scheme your agent belongs to.

- ☐ [The Property Ombudsman](#)
- ☐ [Property Redress Scheme](#)

You can also contact the redress schemes to make a complaint about your letting agent.

Homes (Fitness for Human Habitation) Act 2018

[Guide for tenants](#)

Help and advice

- ☐ [Citizens Advice](#) – free, independent, confidential and impartial advice to everyone on their rights and responsibilities
- ☐ [Shelter](#) – housing and homelessness charity who offer advice and support
- ☐ [Crisis](#) – advice and support for people who are homeless or facing homelessness
- ☐ [Your local council](#) – to make a complaint about your landlord or the condition of your property
- ☐ [Housing Loss Prevention Advice Service](#) – free legal advice if you are at risk of losing your home

- ☐ [MoneyHelper](#) – free and impartial money advice
- ☐ [The Law Society](#) – to find a lawyer
- ☐ [Gas Safe Register](#) – for help and advice on gas safety issues
- ☐ [Electrical Safety First](#) – for help and advice on electrical safety issues
- ☐ [Foundations](#) – a national organisation that can provide advice and help disabled people apply for funding to make adaptations to their home
- ☐ [Smart Energy GB](#) – for help and advice on installing a smart meter and tips on energy efficiency

Also in this series

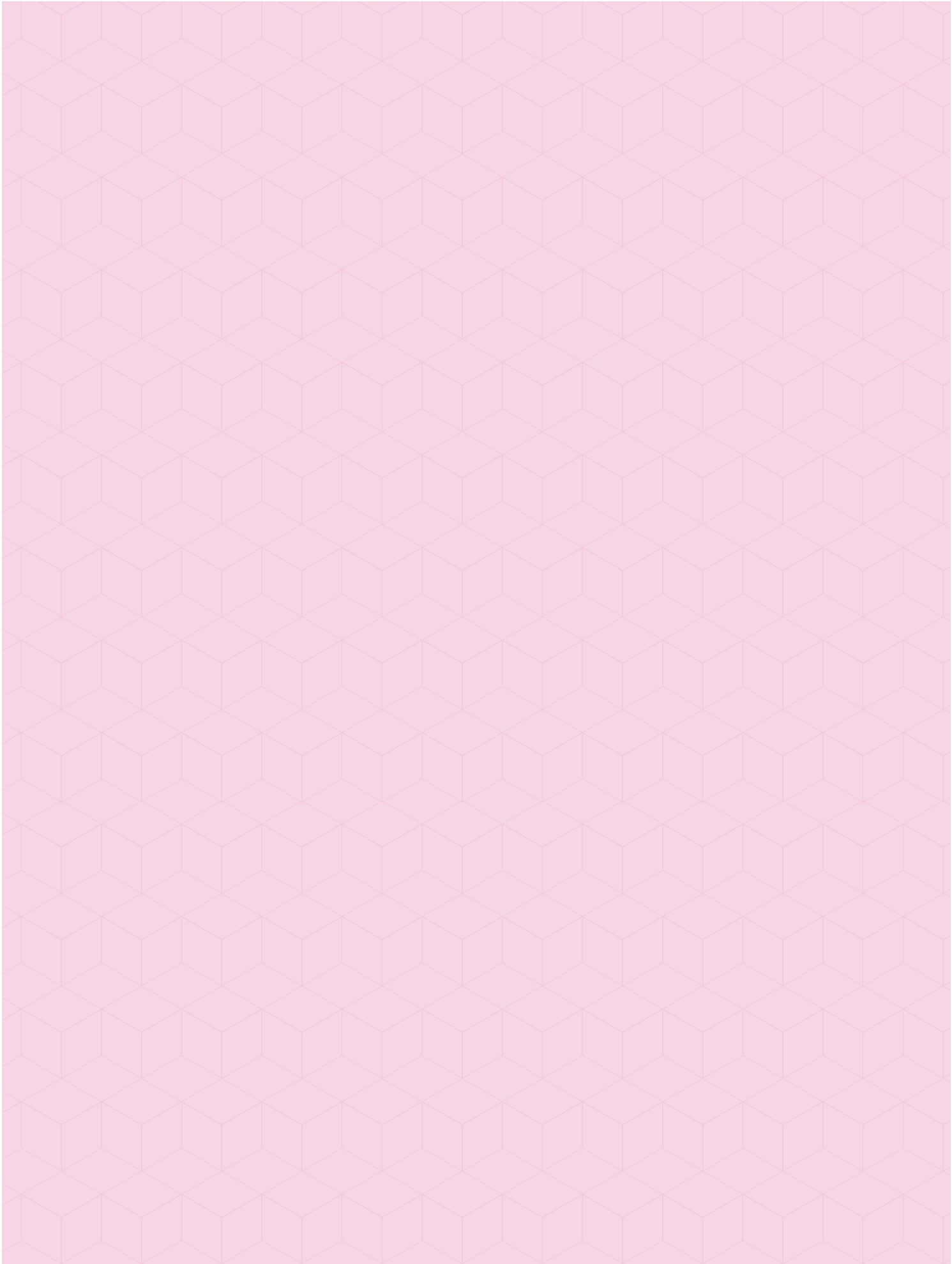
The government's '[How to rent a safe home](#)' guide helps current and prospective tenants ensure that a rented property is safe to live in.

The government's '[How to let](#)' guide provides information for landlords and property agents about their rights and responsibilities when letting out property.

The government's '[How to lease](#)' guide helps current and prospective leaseholders understand their rights and responsibilities.

The government's '[How to buy a home](#)' guide provides information to home buyers.

The government's '[How to sell a home](#)' guide provides information to those looking to sell their home.





Appeal Decision

Site visit made on 23 February 2026

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2026

Appeal Ref: APP/Z4310/X/25/3365461

9 Rathbone Road, Wavertree, Liverpool L15 4HG

- 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 SGL Group Ltd against the decision of Liverpool City Council.
 - The application ref 24LE/1480, dated 5 June 2024, was refused by notice dated 21 January 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 a C4 Use Class HMO.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Application for costs

2. An application for an award of costs has been made by SGL Group Ltd against Liverpool City Council. That is the subject of a separate decision.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

4. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Town and Country Planning Act 1990 (the Act) if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous.
5. A Direction made under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 applies to the area in which the appeal property is located. The Direction came into force on the 17 June 2021 and removes the permitted development rights conferred by Schedule 2, Part 3, Class L(b), ie the change of use of a building from a use falling within Class

C3(dwellinghouses) to a use falling within Class C4(houses in multiple occupation).

6. Given the above, the question is whether the use of the property materially changed to use as a C4 Use Class house in multiple occupation (HMO) after the Class L(b) permitted development rights came into force, but prior to the date on which the Article 4 Direction came into effect (17 June 2021) and therefore had the benefit of planning permission. If it benefitted from planning permission, was that subsequently lost through a material change of use of the property.
7. The Assured Shorthold Tenancy Agreement (ASTA) dated 1 June 2020 identifies three tenants. The term of the ASTA is twelve months, ending on 30 June 2021. This ASTA covers the relevant date of 17 June 2021. The ASTA dated 1 June 2021 includes two of the tenants listed in the 2020 ASTA, plus an additional one; three in total. Again, this is a 12 month tenancy ending 30 June 2022.
8. The ASTA dated 1 June 2022 identifies 4 tenants, all different to the previous tenants. The same four tenants are listed in the 1 June 2023 ASTA. This was a 6 month term, ending on 31 December 2023.
9. The ASTAs therefore indicate the property was occupied by 3 to 4 residents prior to the Article 4 Direction coming into effect. The use of the property as an HMO is further supported by the email correspondence from the Council's HMO Licensing Support Officer. This confirms the appeal property has had an HMO license from February 2019 to August 2021 and then February 2022 to March 2023. These licenses cover the relevant date of 17 June 2021.
10. Therefore, on the balance of probabilities, it has been sufficiently demonstrated that the appeal property was in use as a C4 Use Class HMO prior to the Article 4 Direction coming into effect and therefore had the benefit of planning permission. The question now is whether a material change of use of the appeal property took place following it being brought into use as a C4 Use Class HMO.
11. It was held in *Panton & Farmer v Secretary of State for the Environment* [1999] 78 P&CR 186 that lawful use rights could only be lost by evidence of abandonment; by the formation of a new planning unit; or by way of a material change of use (whether by way of implementation of a further planning permission, or otherwise). It is important to note that 'or otherwise' can mean an unlawful material change of use.
12. In email correspondence between the Council and the appellant, the Council states that *'Information obtained from the Councils Private Sector Housing team confirms the property benefitted from an HMO Licence from 2019 for a maximum of 8 persons with no occupants listed at the time of the Licence application and the Licence from February 2022 was for a maximum of 8 persons with 7 occupants listed at the time of the Licence application.'* However, the Council provide no details of the license applications to indicate who the '7 listed occupants' were. I acknowledge the appellant has provided very limited information on this matter too.
13. A copy of the license certificate, granted on 18 February 2022 states that the license is for not more than '8 persons'. However, that does not mean it must be occupied by 8 persons. The evidence from the ASTAs and the Statutory Declaration of Simon Lawrence (appeal property owner) indicating it was occupied

by 3/4 tenants during this time does not conflict with the HMO license for no more than 8 persons.

14. I have had regard to the appeal decision referred to me by the Council¹. In that appeal, there was no dispute that the property was in use by 8 residents nor that it was occupied by them for 13 months. In this instance, I have found that the C4 Use Class HMO was lawful, due its occupation by 3/4 tenants at the time the Article 4 Direction came into effect. There is very limited evidence it was ever in occupation by 7 residents, if indeed it ever was, and no evidence to indicate how long they occupied it for. Accordingly, there are no similarities between that appeal and the one before me that supports the Council's case. Whilst the onus of proof is upon the appellant, all parties have a duty to substantiate their cases.
15. Notwithstanding that the use of the property as a 7 person HMO may not result in a material change in the use of the property from a C4 Use Class HMO, there is an absence of any evidence substantiating the Council's contention that the property was in use as a 7 person HMO. Therefore, on the evidence before me, on the balance of probabilities, the evidence fails to demonstrate there has been a material change in the use of the appeal property from a C4 Use Class HMO.
16. I find therefore, the evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, the use of the appeal property changed to a C4 Use Class house in multiple occupation after Schedule 2, Part 3, Class L(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 came into force, but before the Article 4 Direction came into effect. The use then continued up to the date of the LDC application.

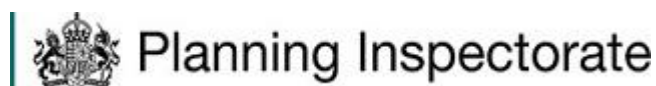
Conclusion

17. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

INSPECTOR

¹ Appeal reference APP/Z4310/X/23/3325954



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 (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 5 June 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, the use of the appeal property changed to a C4 Use Class house in multiple occupation after Schedule 2, Part 3, Class L(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 came into force, but before the Article 4 Direction came into effect. The use then continued up to the date of the LDC application.

Signed

A Walker

Inspector

Date: 19 March 2026

Reference: APP/Z4310/X/25/3365461

First Schedule

C4 Use Class HMO

Second Schedule

Land at 9 Rathbone Road, Liverpool L15 4HG

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated:19 March 2026

by A Walker

Land at: 9 Rathbone Road, Liverpool L15 4HG

Reference: APP/Z4310/X/25/3365461

Scale: Not to Scale





Costs Decision

Site visit made on 23 February 2026

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2026

Costs application in relation to Appeal Ref: APP/Z4310/X/25/3365461

9 Rathbone Road, Wavertree, Liverpool L15 4HG

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by SGL Group Ltd for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal of a certificate of lawful use or development for a C4 Use Class HMO.
-

Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that examples of unreasonable behaviour that may lead to an award of costs against appeal parties include failure by the planning authority to substantiate a stated reason for refusal.
4. The application for a certificate of lawful use or development (LDC) that was the subject of the appeal was submitted to the Council accompanied by, amongst other things, Assured Shorthold Tenancy Agreements (ASTAs) covering the period of 1 June 2020 to 31 December 2023. Each ASTA identifies the tenants at the time. The application was also accompanied by the statutory declaration made by the appeal property owner.
5. The Council's case centres on their assertion that the property has at some point been in occupation by 7 persons. They claim this is based on information from their Private Sector Housing department that 7 people were listed at the property for the 2022 HMO license. The appellant requested a copy of this correspondence from the Private Sector Housing department, which the Council declined to provide on data protection grounds. However, I fail to see how the appellant could have reasonably responded to this assertion from the Council without having sight of the evidence upon which the Council were relying. The ASTAs clearly identified 3/4 tenants, including their names. Even if the Council could not have provided the requested information it seems reasonable that they could have at least confirmed whether the persons listed in the license application matched any of those on the ASTAs. It may have been that the persons named on the licence overlapped two ASTA periods, thus including all named tenants on both.

6. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. Nevertheless, if the Council claim they have evidence that contradicts the appellant's case, but do not provide this evidence, then it makes it difficult for the appellant to answer. Accordingly, the Council's argument that the property has been occupied by 7 persons is wholly unsubstantiated and therefore amounts to unreasonable behaviour.

Conclusion

7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Liverpool City Council shall pay to SGL Group Ltd the costs of the appeal proceedings described in the heading of this Decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Liverpool City Council details of those costs with a view to reaching agreement as to the amount.

A Walker

INSPECTOR