



Officer Report

Application Number:	HGY/2026/1037
Application Type:	Lawful development: Existing use
Address:	162 Park Lane, Tottenham, London, N17 0JN
Proposal:	Certificate of lawfulness for the existing use of the property as an 8-bedroom, 9-person House in Multiple Occupation (HMO) (Sui-generis use).
Case Officer:	Neil McClellan
Valid Date:	13/04/2026
Applicant:	Mr Kishantha Palliyaguruge
Agent:	Mr Justin Reid

RECOMMENDATION

Refuse

PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposal

Certificate of lawfulness for the existing use of the property as an 8-bedroom, 9-person House in Multiple Occupation (HMO) (Sui-generis use).

Site Description

Two-storey mid terraced house with an additional floor of accommodation in the roof.

The site is not within a conservation area. It is not listed or within the curtilage of listed building.

The site is located within the area of the borough covered by an Article 4 direction removing permitted development rights for changes of use from Class C3 to Class C4. It also within Haringey's designated Family Housing Protection Zone.

Planning and Enforcement History

The following are relevant to the current application:

HGY/2024/2550 – Planning permission refused for the change of use of the property from a single family 6-bed dwelling to an 8-bedroom HMO for a maximum of 9 occupants (RETROSPECTIVE APPLICATION).

ENF/2024/0663 – Enforcement investigation into the unauthorised conversion of the property to large-scale HMO. Further enforcement action is pending the outcome of this current application.

HGY/2017/1275 – Certificate of lawfulness granted for loft conversion comprising a rear dormer extension and front roof lights.

HGY/2017/3198 – Prior approval granted for the erection of single storey extension which extends beyond the rear wall of the original house by 5.5m, for which the maximum height would be 2.95m and for which the height of the eaves would be 2.95m.

Other History

The property is currently licensed to operate as an 8-bedroom HMO for a maximum of 9-occupants (Licence number HAR-210354649474).

RELEVANT LEGISLATION AND GUIDANCE

The application has been made under section 191 of the Town and Country Planning Act 1990 (as amended).

Section 191 of the 1990 Act provides for anyone to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition.

By virtue of section 191(2), uses and operations are "lawful" if no enforcement action may be taken against them and they are not in contravention of any enforcement notice which is in force. And, by virtue of section 191(3), a failure to comply with any condition or limitation subject to which planning permission has been granted is "lawful" if the time for taking enforcement action in respect of the failure has expired and it does not constitute a contravention of any enforcement notice or breach of condition notice which is in force.

Development or other activity on land is lawful for planning purposes if it is within one of the following categories and does not involve a failure to comply with a condition or limitation subject to which planning permission has been granted:

- (1) it is not within the definition of "development" in section 55(1) and (1A) of the 1990 Act. (This might be because it is so insignificant that it can be disregarded (a "de minimis" operation, use or activity); or because it involves a change of use which is not, as a matter of fact and degree, materially different, for planning purposes, from a previous lawful use of land.); or
- (2) it is specifically excluded from the definition of development by section 55(2) (for example, a use of land for the purpose of "agriculture"); or
- (3) it is within the definition of "development" in section 55, but is exempted from the need for planning permission by the provisions of section 57; or
- (4) it benefits from an extant grant of planning permission under Part III of the 1990 Act (or the equivalent Parts of preceding Acts); or
- (5) it benefits from a general planning permission granted by the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418), or by a simplified planning zone or enterprise zone scheme; or
- (6) it benefits from deemed planning permission, whether under section 90 or by virtue of compliance with the requirements of an effective enforcement notice; or
- (7) it took place before 1 July 1948 (the "appointed day" Country Planning Act 1947); or
- (8) it is development by or on behalf of the Crown; or
- (9) the time for taking enforcement action has expired.

"Taking enforcement action" is defined in section 171A of the 1990 Act. It is the issue of an enforcement notice or the service of a breach of condition notice. The section also defines a

"breach of planning control" (against which it is possible to take enforcement action) as the carrying out of development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted.

Section 171B of the 1990 Act specifies the time-limits for taking enforcement action which are as follows:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

CONSULTATION

Although not a statutory requirement on applications for certificates of lawfulness, 31 properties within the vicinity of the application property were notified of the application. No responses have been received.

ANALYSIS/ASSESSMENT OF THE APPLICATION

The application has been made under section 191 of the Town and Country Planning Act 1990 (as amended).

Section 191 of the 1990 Act provides for anyone to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition.

By virtue of section 191(2), uses and operations are "lawful" if no enforcement action may be taken against them and they are not in contravention of any enforcement notice which is in force. And, by virtue of section 191(3), a failure to comply with any condition or limitation subject to which planning permission has been granted is "lawful" if the time for taking enforcement action in respect of the failure has expired and it does not constitute a contravention of any enforcement notice or breach of condition notice which is in force.

Development or other activity on land is lawful for planning purposes if it is within one of the following categories and does not involve a failure to comply with a condition or limitation subject to which planning permission has been granted:

- (1) it is not within the definition of "development" in section 55(1) and (1A) of the 1990 Act. (This might be because it is so insignificant that it can be disregarded (a "de minimis" operation, use or activity); or because it involves a change of use which is not, as a matter of fact and degree, materially different, for planning purposes, from a previous lawful use of land.); or
- (2) it is specifically excluded from the definition of development by section 55(2) (for example, a use of land for the purpose of "agriculture"); or
- (3) it is within the definition of "development" in section 55, but is exempted from the need for planning permission by the provisions of section 57; or
- (4) it benefits from an extant grant of planning permission under Part III of the 1990 Act (or the equivalent Parts of preceding Acts); or
- (5) it benefits from a general planning permission granted by the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418), or by a simplified planning zone or enterprise zone scheme; or
- (6) it benefits from deemed planning permission, whether under section 90 or by virtue of compliance with the requirements of an effective enforcement notice; or
- (7) it took place before 1 July 1948 (the "appointed day" Country Planning Act 1947); or
- (8) it is development by or on behalf of the Crown; or
- (9) the time for taking enforcement action has expired.

"Taking enforcement action" is defined in section 171A of the 1990 Act. It is the issue of an enforcement notice or the service of a breach of condition notice. The section also defines a "breach of planning control" (against which it is possible to take enforcement action) as the carrying out of development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted.

Section 171B of the 1990 Act specifies the time-limits for taking enforcement action which are as follows:

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of ten years (four years where the breach started less than four years before 25 April 20240, beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
 - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

This is not a planning application, and the planning merits are not relevant to this submission. Rather the applicant seeks to prove by the submission of evidence that 192 Park Lane has been in use as an 8-bedroom 9-person HMO for a period in excess of 10 years. It is noted that HMOs are not defined as single dwellinghouses and therefore for the purposes of Section 171B of the 1990 Act, the four-year rule have never applied to them.

The relevant test of the evidence is "the balance of probability" if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate.

The applicant must prove that the use referred to in the application was lawful for planning purposes on the date of the application. In this instance the relevant period commences on 13/04/2016.

Information Provided

Applicants (De Silva Empire Ltd) Bank Statements

NatWest bank statement 15/12/2015 to 01/06/2016
NatWest bank statement 15/06/2016 to 14/12/2016
NatWest bank statement 15/12/2017 to 06/03/2018
NatWest bank statement 15/03/2018 to 07/08/2018
NatWest bank statement 15/05/2019 to 11/03/2019
NatWest bank statement 15/01/2019 to 15/07/2019
NatWest bank statement 13/09/2019 to 12/11/2019
NatWest bank statement 15/11/2019 to 09/06/2020
NatWest bank statement 27/01/2020 to 01/07/2020
NatWest bank statement 15/04/2020 to 10/06/2020
NatWest bank statement 15/06/2020 to 03/08/2020
NatWest bank statement 04/01/2019 to 31/01/2022
NatWest bank statement 01/02/2022 to 30/08/2022
NatWest bank statement 02/05/2023 to 06/09/2023
NatWest bank statement 20/09/2023 to 27/12/2023
NatWest bank statement 03/01/2023 to 05/04/2023
NatWest bank statement 02/01/2024 to 02/04/2024
NatWest bank statement 30/09/2024 to 12/11/2024
NatWest bank statement 03/06/2024 to 26/07/2024
NatWest bank statement 03/03/2025 to 08/04/2025
NatWest bank statement 02/06/2025 to 28/07/2025
NatWest bank statement 02/01/2026 to 09/01/2026

Santander Bank Statement 01/01/2020 to 31/12/2020.
Santander Bank Statement 01/01/2021 to 31/12/2021.
Santander Bank Statement 01/01/2022 to 31/12/2022.
Santander Bank Statement 01/01/2023 to 31/12/2023.
Santander Bank Statement 01/01/2024 to 31/12/2024.
Santander Bank Statement 01/01/2025 to 31/12/2025.
Santander Bank Statement 01/01/2026 to 20/03/2026.
Santander Bank Statement 03/03/2026 to 02/04/2026.

Tenancy Agreements

Room 1

Tenancy Agreement 01/04/2018 to 30/09/2018 (Room 1, 162 Park Lane)
Tenancy Agreement 04/03/2019 to 03/06/2019 (Room 1, 162 Park Lane)
Tenancy Agreement 01/05/2019 to 31/10/2019 (Room 1, 162 Park Lane)
Tenancy Agreement 01/10/2020 to 31/12/2020 (Room 1, 162 Park Lane)
Tenancy Agreement 14/04/2021 to 13/07/2021 (Room 1, 162 Park Lane)

Tenancy Agreement 25/06/2021 to 24/12/2021 (Room 1, 162 Park Lane)
Tenancy Agreement 10/10/2022 to 09/04/2023 (Room 1, 162 Park Lane)
Tenancy Agreement 01/11/2023 to 31/01/2024 (Room 1, 162 Park Lane)
Tenancy Agreement 01/02/2024 to 31/09/2024 (Room 1, 162 Park Lane)
Tenancy Agreement 27/08/2025 to 30/11/2025 (Room 1, 162 Park Lane)

Room 2

Tenancy Agreement 01/04/2018 to 30/09/2018 (Room 2, 162 Park Lane)
Tenancy Agreement 01/11/2023 to 31/01/2024 (Room 2, 162 Park Lane)
Tenancy Agreement 01/01/2024 to 31/10/2018 (2024?) (Room 2, 162 Park Lane)
Tenancy Agreement 01/08/2024 to 31/12/2024 (Room 2, 162 Park Lane)

Room 3

Tenancy Agreement 07/03/2018 to 06/06/2018 (Room 3, 162 Park Lane)
Tenancy Agreement 01/09/2018 to 30/11/2018 (Room 3, 162 Park Lane)
Tenancy Agreement 01/07/2020 to 30/09/2020 (Room 3, 162 Park Lane)
Tenancy Agreement 01/10/2022 to 31/01/2023 (Room 3, 162 Park Lane)
Tenancy Agreement 06/10/2022 to 31/01/2023 (Room 3, 162 Park Lane)
Tenancy Agreement 01/03/2023 to 30/08/2023 (Room 3, 162 Park Lane)
Tenancy Agreement 01/11/2023 to 31/01/2024 (Room 3, 162 Park Lane)
Tenancy Agreement 06/07/2024 to 05/10/2020 (2024?) (Room 3, 162 Park Lane)
Tenancy Agreement 23/07/2025 to 22/10/2025 (Room 3, 162 Park Lane)

Room 4

Tenancy Agreement 06/03/2018 to 05/06/2018 (Room 4, 162 Park Lane)
Tenancy Agreement 01/11/2023 to 31/01/2024 (Room 4, 162 Park Lane)
Tenancy Agreement 06/03/2024 to 05/08/2024 (Room 4, 162 Park Lane)

Room 5

Tenancy Agreement 10/03/2018 to 09/09/2018 (Room 5, 162 Park Lane)
Tenancy Agreement 01/04/2019 to 30/09/2019 (Room 5, 162 Park Lane)
Tenancy Agreement 15/10/2019 to 14/01/2020 (Room 5, 162 Park Lane)
Tenancy Agreement 01/11/2023 to 31/01/2024 (Room 5, 162 Park Lane)
Tenancy Agreement 30/12/2024 to 31/07/2025 (Room 5, 162 Park Lane)
Tenancy Agreement 01/03/2026 to 30/07/2026 (Room 5, 162 Park Lane)

Room 6

Tenancy Agreement 08/03/2018 to 07/06/2018 (Room 6, 162 Park Lane)
Tenancy Agreement 05/01/2020 to 04/03/2020 (Room 6, 162 Park Lane)
Tenancy Agreement 01/02/2020 to 30/04/2020 (Room 6, 162 Park Lane)
Tenancy Agreement 24/05/2021 to 23/08/2021 (Room 6, 162 Park Lane)
Tenancy Agreement 01/10/2022 to 31/01/2023 (Room 6, 162 Park Lane)
Tenancy Agreement 19/12/2023 to 31/07/2023 (Room 6, 162 Park Lane)
Tenancy Agreement 01/11/2023 to 31/04/2024 (Room 6, 162 Park Lane)
Tenancy Agreement 05/01/2024 to 04/10/2024 (Room 6, 162 Park Lane)
Tenancy Agreement 31/07/2024 to 30/04/2025 (Room 6, 162 Park Lane)
Tenancy Agreement 14/03/2025 to 13/08/2025 (Room 6, 162 Park Lane)

Room 7

Tenancy Agreement 05/03/2018 to 04/06/2018 (Room 7 162 Park Lane)
Tenancy Agreement 08/06/2019 to 07/09/2019 (Room 7 162 Park Lane)
Tenancy Agreement 06/07/2020 to 05/10/2020 (Room 7 162 Park Lane)

Studio

Tenancy Agreement 08/03/2018 to 07/09/2018 (Studio, 162 Park Lane)
Tenancy Agreement 26/03/2018 to 25/09/2018 (Studio, 162 Park Lane)
Tenancy Agreement 20/12/2018 to 19/03/2018 (Studio, 162 Park Lane)
Tenancy Agreement 01/03/2026 to 30/07/2026 (Studio, 162 Park Lane)

Other

Tenancy Agreement 01/04/2014 to 31/03/2015 (The Dwelling at 162 Park Lane) (Miss D Franklin)
Tenancy Agreement 01/04/2014 to 31/03/2015 (The Dwelling at 162 Park Lane) (Mr A Ruddock)
Tenancy Agreement 01/04/2014 to 31/03/2015 (The Dwelling at 162 Park Lane) (Mr S Sanjeeves)
Tenancy Agreement 01/04/2014 to 31/03/2015 (The Dwelling at 162 Park Lane) (Mr C Amkomah)

Tenancy Agreement 01/06/2014 to 31/05/2015 (The Dwelling at 162 Park Lane) (Mr. George Addae Nyarko & Mr. Frank Anderson)
Tenancy Agreement 01/09/2014 to 31/08/2015 (The Dwelling at 162 Park Lane) (Samantha Harding)

These additional tenancy agreements were provided after the application was submitted and include one let for two co-occupants. This shows that for part of 2014 and 2015 the property was tenanted by 7 individuals.

Assessment

The bank statements provided show continuous financial activity for the applicant's business (De Silva Empire Ltd) from December 2015 to the present day. However, they do not demonstrate any link to the tenancy of 162 Park Lane or the nature of its tenure.

As originally submitted, the tenancy agreements provided show the property's use as an 8-bedroom HMO only went as far back as 2018 and therefore didn't demonstrate that it has been in continuous use as a large-scale HMO for the ten years up to the submission of the application. The current layout of the property as an 8-bedroom HMO includes 4 rooms that were only created in 2018 following the construction of the roof and ground floor extensions which were granted a certificate of lawfulness and prior approval in 2017 (see planning history above). The existing plans for both these applications show the property as a 4-bedroom dwelling house. The proposed plans for the extensions when combined show 7 bedrooms. Based on the current floor plans the large original communal/family living room/lounge was, as part of the extension works, was converted into two bedrooms and one of the first-floor bedrooms was converted into a communal bathroom, resulting in the current 8-bedroom layout.

Following submission, the applicant has provided further tenancy agreements that show for a short period of 7 months, during 2014/2015, prior to the 2017/2018 extensions, was tenanted by 7 unrelated individuals. With 2-tenants co-occupying a single room. It is the applicant's assertion that the property began its use as a large-scale HMO prior to these extensions. However, there is a significant gap of three years following these tenancy agreements and the start of the tenancy agreements associated with its current, post-extension layout. Given the paucity of evidence supporting the applicant's assertion that the property was in use as a large-scale HMO prior to the 2018 extensions and given the contradictory evidence of the applicant's own existing plans submitted with the 2017 prior approval and certificate of lawfulness applications, officers are not satisfied that the applicants evidence is sufficiently precise and unambiguous to demonstrate that, on the balance of probabilities, the property has been in use as a large scale HMO for the required 10 year period.

Furthermore, if the property had been in use as a large scale HMO right up to its 2018 extension, in submitting what would have been inaccurate existing floor plans with their 2017 applications, and in their statement on the application form accompanying the 2017 certificate of lawfulness application, that the property's existing and proposed use fell within the C3 (Dwellinghouse) Use Class, it could be argued that there has been "positive deception" integral to the planning process to avoid detection. As such, as confirmed by the Court in *Jackson v Secretary of State for Communities and Local Government* [2015], the developer cannot rely on statutory time limits.

Conclusion

Given the above assessment, officers are not satisfied that, on the balance of probabilities, the property has been in use as an 8-bedroom, 9-person House in Multiple Occupation (HMO) (Sui-generis use), for a continuous period in excess of ten years. and is therefore not immune from enforcement action and as a result not lawful.

SUMMARY AND CONCLUSION

The applicant has failed to demonstrate that, on the balance of probability, 162 Park Lane, N17 0JN has, for a period in excess of 10 years, been in use as an 8-bedroom, 9-person House in Multiple Occupation (HMO) (Sui-generis use), and has thus not become immune from enforcement action and is therefore unlawful.

RECOMMENDATION

REFUSE CERTIFICATE

Refusal Reasons:

The applicant has failed to demonstrate that, on the balance of probability, 162 Park Lane, N17 0JN has, for a period in excess of 10 years, been in use as an 8-bedroom, 9-person House in Multiple Occupation (HMO) (Sui-generis use), and has thus not become immune from enforcement action and is therefore unlawful.