

Application Number:	HGY/2026/0416
Application Type:	Lawful development: Existing use
Address:	5 Coombe Road, Wood Green, London, N22 5LB
Proposal:	Certificate of lawful development for the existing use of property as a small-scale HMO for up to 5 residents with 5 bedrooms (Class C4).
Case Officer:	Mark Chan
Valid Date:	01/04/2026
Applicant:	6
Agent:	Mrs Ping Chen

RECOMMENDATION

Refuse

1. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposal

Certificate of lawful development for the existing use of property as a small-scale HMO for up to 5 residents (Class C4).

Site Description

The application site is a three-storey (ground, first, and second floor) terraced property located at 5 Coombe Road, London, N22 5LB. The site is not within a conservation area and not listed or within the curtilage of a listed building.

Planning History

HGY/2016/0361 – Erection of single storey extension which extends beyond the rear wall of the original house by 6m, for which the maximum height would be 3.2m and for which the height of the eaves would be 2.9m. Prior approval not required 11/03/2016.

HGY/2019/2352 – Removal of front boundary wall to enable vehicle crossover. Refused 30/09/2019.

HGY/2009/1880 – Retrospective planning application for retention of two self contained flats. Refused 15/12/2009.

Enforcement History

ENF/2024/0193 – Planning Complaint for Change of Use - House in Multiple Occupation - 5 persons and 5 households. Requires further investigation 29/05/2024.

FCV/2018/00645 – Planning Complaint for Change of Use - Flat Conversion. Case closed 11/10/2018.

2. REPRESENTATION

Planning Practice Guidance (PPG) on Lawful Development Certificates, sets out that: “There is no statutory requirement to consult third parties. It may, however, be reasonable for a Local Planning Authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.” (Paragraph: 008 Reference ID: 17c-008-2014030).

No representations have been received.

3. RELEVANT LEGISLATION AND GUIDANCE

The application has been made under section 191 of the Town and Country Planning Act 1990 and relevant amendments. This is not a planning application but instead the applicant seeks confirmation that the proposed development is lawful.

Town and Country Planning Act 1990

Section 191 of the Town and Country Planning Act 1990 (as amended by section 10 of the Planning and Compensation Act 1991) states that: “If any person wishes to ascertain whether any existing use of buildings or other land is lawful ...he may make an application for the purpose to the Local Planning Authority specifying the land and describing the use ... For the purposes of this Act uses ... are lawful at any time if – (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. If, on an application under this section, the Local Planning Authority are provided with information satisfying them of the lawfulness at the time of the application of the use, described in the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”

National Planning Practice Guidance (PPG)

National Planning Policy Guidance issued by the Government in relation to Lawful Development Certificates explains the process for obtaining a lawful development certificate for existing or proposed use.

In this case, the Local Planning Authority is requested to grant a certificate confirming that: “(a) an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990” Paragraph 001 Reference ID: 17c-001-20140306.

Paragraph: 009 Reference ID: 17c-009-20140306 of the PPG indicates: “A Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.”

As such, the impact of the proposed development on the neighbouring amenity or the character of the area cannot be taken into consideration for the purpose of this submission.

Paragraph: 006 Reference ID: 17c-006-20140306 of the PPG indicates: "The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, 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 on the balance of probability."

4. ANALYSIS/ASSESSMENT OF THE APPLICATION

Section 191 of the Act indicates that the burden of proof lies with the applicant, but the relevant test is 'the balance of probability'. Local Planning Authorities (LPAs) are advised that (unless the applicant's evidence is imprecise or ambiguous, or the LPA has evidence of its own which contradicts or undermines the applicant's version of events), a certificate should be issued.

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 5 Coombe Road, London, N22 5LB has been in use as a small-scale HMO for up to 5 residents (Class C4) for a period of 10 years or more. 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. The application was received on 16/02/2026. In this instance, the relevant 10-year period commences on or before 16/02/2016.

APPLICANT'S EVIDENCE

The application form accompanying this application asserts that the use of 5 Coombe Road, London, N22 5LB as a Class C4 HMO commenced on 01/10/2015. The application is accompanied by the following evidence:

Tenancy Agreements

- Assured Shorthold Tenancy Agreement dated November 2015: Covers the period from 20/11/2015 to 19/11/2016 for the host property with 5 named tenants.
- Assured Shorthold Tenancy Agreement dated April 2020: Covers the period from 20/04/2020 to 19/04/2021 for the host property with 5 named tenants.
- Assured Shorthold Tenancy Agreements for Rooms 3, 4 and 5: Show individual room were rented out starting on 01/01/2024 for Room 4, 12/01/2024 for Room 5, and 13/06/2024 for Room 3 all lasting for a 12-month fixed term.

Deposit Protection Service (DPS) Certificates

- Certificates dated 20/11/2015 and 20/04/2020 correspond to the joint tenancy agreements, confirming deposits of £2200 protected for 5 named tenants in each instance.

Bank Statements

- Barclays Bank statements for the applicant (Ping Chen) covering periods across 2015, 2016, 2017, 2018, 2019, 2020, 2022, and 2023. However, there are notable gaps in the rent payments, especially between 2015 – 2018 where only three payments from one tenant (J Khinanti) were recorded. Those payments were for the months of October, November and December 2015 – 2018.

Statutory Declarations

- Three sworn affidavits dated 05/02/2026: one from the Landlord (Ping Chen) and two from tenants who have stated they have occupied the property since 2015 (Jitti Khinanti and Maciej Sokolowski-Zgid). They attest that the property has continuously been used for residential letting purposed as an HMO and not as a single-family dwelling since November 2015.

Building Insurance Schedule

- A Landlord Household Insurance Statement of Fact dated November 2015, listing Ping Chen as an Additional Insured and specifying the "Type of Let" as "Working people".

Completion Letter

- A letter dated 09/07/2019 regarding a remortgage to Barclays Bank UK PLC.

Existing Floor Plan

- The plan show that the host property has a three-storey layout featuring five bedrooms and shared amenities, including a kitchen/dining room on the ground floor and shower rooms and toilets on each floor.

Location Plan

ASSESSMENT

Following the complete review of all submitted evidence and the planning and enforcement history of the site and as well as comments from the Council's enforcement team, it was brought to the Officer's attention that the host property has an enforcement history and was previously served an enforcement notice for unauthorised conversion of a single family dwellinghouse into 2 flats on 07/04/2010.

Furthermore, site visits were conducted by enforcement officer in October 2018 and January 2019 and photographic evidence from the site visits shows that the host property was undergoing a large-scale refurbishment at the time and would have been vacant during that period or longer. The enforcement officer at the time also noted that that the owner acknowledged that the host property was two separate flats when she purchased it and was refurbishing it for her family to occupy it. The Council tax record also listed the host property as two flats until 2018.

Officer has also checked the submitted bank statements and noted that there were significant gaps in the rent payments, especially between 2015 – 2018 where only three payments from one tenant (J Khinanti) were recorded. Those payments were for the months of October, November and December 2015 – 2018.

Whilst three sworn affidavits dated 05/02/2026 have been submitted, the evidence that the Council has on record combined with other submitted evidence contradict the applicant's account that the application site has been used as a small-scale HMO for up to 5 residents with 5 bedrooms (Class C4) for 10 years or more.

5. CONCLUSION

Given the above assessment, officer is not satisfied that, on the balance of probabilities, 5 Coombe Road, London, N22 5LB has been used as a Class C4 small-scale HMO for up to 5 residents for a

continuous period of 10 years or more before the date of this application and is therefore not immune from enforcement action as result of being considered unlawful.

6. RECOMMENDATION

REFUSE Certificate of Lawfulness

Refusal Reasons:

From the documentation and evidence provided, the Local Planning Authority is not satisfied that, on the balance of probabilities, 5 Coombe Road, London, N22 5LB has been used as a small-scale HMO (Use Class C4) for a continuous period of ten years before the date of this application. Therefore, the sought use is considered to be unlawful.