

14 Willow Tree Lane, Hayes, UB4 9BB

Section 195 Town and Country Planning Act

Appeal Statement

Appeal against refusal of a Certificate of Lawfulness of Proposed Use or Development for the Occupation of existing 6-bedroom, 6-person House in Multiple Occupation (Class C4) to a 7-bedroom, 7-person House in Multiple Occupation (Sui Generis)



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Site Information

Consultant	Joseph Orbell
Checked by	Francelita Balbido
Client	SB Property Power
Site Address	14 Willow Tree Lane, Hayes, UB4 9BB
LA	Hillingdon
Description of Development	Occupation of existing 6-bedroom, 6-person House in Multiple Occupation (Class C4) to a 7-bedroom, 7-person House in Multiple Occupation (Sui Generis)
Pathway (PD/Application/Appeal)	Appeal against the refusal of a certificate of lawfulness of proposed use or development.

Constraints Review

Flood Risk Zone	1
Contaminated Land	No
Tree Preservation Order	No
Heritage Assets	No
Noise Abatement Areas	No
Explosive Hazard Areas	No
Area of Outstanding Natural Beauty	No
Special Protection Area	No
Site of Special Scientific Interest	No
RAMSAR Convention Site	No
Site of Importance to Nature Conservation	No
Article 4(1) Directions	C3-C4

Planning History

Change of use from a 6-person House in Multiple Occupation (Class C4) to a 7-person House in Multiple Occupation (Sui Generis) (Application for a Certificate of Lawful Development for a Proposed Use).
Ref: 5516/APP/2025/3218 | Refusal

Change of use from Class C3 dwelling house to 7-bedroom / maximum 8 person HMO Use Class Sui Generis



Ref: 5516/APP/2025/2441 | Refusal

Change of use from a Dwellinghouse (Class C3) to a House in Multiple Occupation (Class C4) (Application for a Certificate of Lawful Development for a Proposed Use).

Ref: 5516/APP/2025/2218 | Refusal

Change of use from C3 dwelling house to 8 bedroom / maximum 8 person HMO Use Class Sui Generis

Ref: 5516/APP/2025/1725 | Refusal

Change of use from Class C3 (Dwelling) to an 8 bedroom Sui Generis (Large HMO).

Ref: 5516/APP/2025/686 | Refusal

Erection of a first floor side extension over existing garage. Conversion of integral garage to habitable accommodation and amendments to fenestration.

Ref: 5516/APP/2025/3 | Approval

Erection of a first floor side extension

Ref: 5516/K/96/0852 | Refused

Erection of a single storey rear extension

Ref: 5516/J/89/0980 | Approval

Report Date

25th August 2026



1. Introduction

1.1. The site, the subject of this certificate, relates to No.14 Willow Tree Lane which is a two-storey, semi-detached building. The site was lawfully converted to a 6-person, C4 house in multiple occupation prior to the implementation of an immediate Article 4, removing Class L permitted development rights and confirmed by certificate 5516/APP/2025/2218.

1.2. A lawful development certificate for a proposed use of this 6-person HMO (Use Class C4) to a 7-person HMO (Sui Generis) was submitted to the London Borough of Hillingdon (The LPA) and refused as the proposed use would fall outside of the “ambit of Use Class C4”.

Summation of Case

1.3. The property has lawful use following the aforementioned certificate and is being used as a 6-person HMO (C4). This is not disputed by the LPA. This proposal is to use a store room on the first floor as an additional bedroom for 1 occupant.

1.4. The property has recently been renovated to a high standard for use as the HMO. The residents are now provided with high quality accommodation and significant amenity space with a large kitchen/dining area and a spacious rear garden.

1.5. The addition of a **7th person to a 6 person HMO is not development and will not lead to a material increase in activity** that will have an impact on neighbouring occupiers. This is not development under the definitions within S55(1) of the Town and Country Planning Act 1990 and as such does not require planning permission and the applicant now seeks confirmation of this through a Certificate of Lawful Use.

2. Site Context

2.1. No. 14 Willow Tree Lane is a two-storey semi-detached dwelling within C4 use. The property is located within an established residential area characterised predominantly by semi-detached and terraced dwellings, with some Class E commercial uses to the west of the site.

2.2. The property is not listed and is not located within a Conservation Area. The site is also identified as being within Flood Zone 1, with no other relevant environmental or heritage constraints identified.

2.3. The site therefore forms part of an established urban residential environment, within which the existing lawful C4 HMO use is already established. The proposed increase in occupation would not alter the physical appearance of the property or its established residential character.

3. Legislative Context

Town and Country Planning Act 1990

3.1. S55(1) of the Town and Country Planning Act provides the legal definition of development that is subject to planning control and states:

55 Meaning of “development” and “new development”.

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

F1 [(1A) For the purposes of this Act “ building operations ” includes—

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.]

3.2. S55 (2)(a) sets out the exemptions to the broad brush approach in S55(1) and states:

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
 - (i) **affect only the interior of the building, or**
 - (ii) do not materially affect the external appearance of the building, and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

Relevant Caselaw

3.3. Matters of intensification have been the subject to challenges within the High Court and Court of Appeal and the key judgements on these decisions are:

R (Lyons) v Secretary of State for Communities and Local Government (2010)
Childs v First Secretary of State and Test Valley Borough Council (2005),
Reed vs Secretary of State for Communities and Local Government (2014)
I'm Your Man case (I'm Your Man Ltd v Secretary of State for the Environment, Transport
and the Regions (1998)

3.4. These are discussed in depth in the originally submitted proof of evidence planning statement.

4. Proof of Evidence

4.1. The full proof of evidence is submitted within the original application bundle and is summarised below.

4.2. The application relates to an existing lawful six-person, six-bedroom C4 HMO at 14 Willow Tree Lane. The proposal is to accommodate a seventh person by use of a store room and utility room, with no internal or external building works. The property has been renovated to provide good-quality accommodation, generous communal space and a spacious rear garden.

4.3. The key issue is whether the increase from six to seven occupants constitutes a material change of use requiring planning permission. Section 55 of the Town and Country Planning Act 1990 confirms that internal works which affect only the interior do not constitute development, while the relevant guidance establishes that exceeding six occupants does not automatically result in a breach. The test is whether the additional occupation changes the character of the use.

4.4. The case law, including Childs, Lyons and Reed, confirms that materiality is a matter of fact and degree and that mere intensification is not sufficient. In this case, the HMO would remain an HMO in character, with only a limited increase in occupation and no physical change to the building.

4.5. Overall, the evidence concludes that the addition of one occupant would not alter the character of the established HMO or result in a material change of use. The proposal therefore does not constitute development under Section 55 and planning permission is not required.

5. Statement of case

5.1. When applying the above principles to the case in point we must discount any argument of pure intensification alone and focus on whether the addition of a person to an otherwise unfettered Class C4 HMO results in a material change of use.

5.2. In respect of the outward appearance and character of the proposed use the development would seek the addition of 1 person via the re-use of a store room. The works to do this are not development as discussed above and were the rooms used for any other purpose there would be no discussion to be had on whether there is or is not a material change of use. The works in themselves do not change the nature or character of the use or indeed affect its designation as an HMO. In essence the HMO use will remain as such with the works in place.

5.3. Fundamentally, applying the principles as set out above the character of the building would remain as an HMO, and the limited intensification does not amount to a material change of use. As such the proposal does not result in development as set out within S55(1) of the Town and Country Planning Act as the addition of 1 bedroom and 1 person to this building would not result in a material change of use by fact or degree.

5.4. To support this assertion the applicant supplies the following appeal decisions

Appeal Ref APP/Z1775/C/20/3245106, APP/Z1775/C/20/3246078, APP/Z1775/C/20/3245110, APP/Z1775/C/20/3246079, APP/Z1775/C/20/3245108, APP/Z1775/C/20/3246077, APP/Z1775/C/19/3233187, APP/Z1775/C/19/3236610, APP/Z1775/C/19/3234941, APP/Z1775/C/19/3266831, APP/Z1775/C/19/3238003, APP/Z1775/C/19/3238287 - Campbell Properties Portsmouth

Appeal Ref: APP/Y1110/X/15/3132534 - 32 Danes Road, Exeter, EL4 4LS

Appeal Ref: APP/W5780/W/20/3263096 - 164 Kingston Road, Ilford IG1 1PE

Appeal Ref: APP/Z1775/W/22/3302601, APP/Z1775/W/22/3303724 and APP/Z1775/W/22/3303194 - The Lane Properties - Southsea

Appeal Ref: APP/Z1775/C/23/3327364 - 127 Powerscourt Road, Portsmouth PO2 7JQ

Appeal Ref: APP/G5180/X/23/3325115 - 105 Ridgeway Drive, Bromley BR1 5DB

Appeal Ref: APP/Y1110/X/24/3352280 - 42 Sylvan Road, Exeter, EX4 6EY

Appeal Ref: APP/N4720/X/25/3366517 - 246 Cardigan Road, LEEDS, LS6 1QL

5.5. In all of the above cases the Inspectorate or LPA applied the case law as set out above and concluded that planning permission was not required in each instance. Therefore as the mentioned appeal cases present, a property changing its formal use class from C4 to Sui Generis is not in and of itself enough to qualify as a material change of use. Instead, it is a

matter of fact and degree as to whether the addition of one additional resident would bring about notable changes to the operation of the property that the character of the use would be altered.

5.6. Turning specifically to the application in question, the LPA, in the decision notice given for 5516/APP/2025/3218, state that the certificate is refused on the basis that adding an additional person to the existing 6-person HMO would fall "outside the ambit of Use Class C4 of the Schedule to the Town & Country Planning (Use Classes) Order 1987".

5.7. The decision notice does not explain why, as a matter of fact and degree, the proposed increase in occupation would amount to a material change of use. While the delegated officer's report provides some further reasoning, the Council has not demonstrated why the addition of one occupant would materially alter the character or operation of the established HMO use.

5.8. Despite the limited weight of decisions and conclusions written within the officer's report, but omitted from the decision notice, this statement will explain why the officer's report's justification as to why the proposed alteration qualifies as a material change of use is flawed.

5.9. Firstly, the officer's report relies heavily on the reasoning from a previously refused application (Ref: 5516/APP/2025/2441). This previous application involved the introduction of an HMO use into a property previously occupied as a conventional C3 dwelling. The current appeal concerns only a marginal increase in occupation within an already established and lawful HMO use. The planning considerations for transitioning from a single-family dwelling to an 8-person HMO are entirely separate from those involving the addition of a single resident to an existing C4 HMO; therefore, the Council's reliance on this application is misplaced and represents a failure to assess each application on their own merits.

5.10. Furthermore, the application referred to in their reasoning for refusing this application, has since been appealed (6004329) and while this appeal was dismissed, speaks directly to the potential impact of the HMO use on the character of the area, which is relevant to the assessment of whether the proposed increase would result in a material change of use.

5.11. Paragraphs 38 to 40 of this appeal decision outlines how the inspectorate in this case found the proposed HMO use could be absorbed into the other activity and uses surrounding the site, without material harm to the character and appearance of the area. Thus, the inspectorate previously ruled that the rather substantial alteration, at this site in the form of a C3 dwellinghouse to an 8-person HMO, would not result in material harm to the character of the area. It is therefore questionable whether the alteration from a 6-person to a 7-person HMO would qualify as a material change of use.

5.12. Secondly, the LPA asserts that the addition of one resident would "result in additional noise and disturbance to neighbours". The applicant disputes this claim as the noise generated

by one additional person, given the context of the property and surrounding area, is negligible. Notwithstanding the LPA has failed to provide any evidence to substantiate this claim, the difference, between 6-persons and 7-persons, within an already populated urban area, would be negligible, and certainly would not result in a material change of use.

5.13. Thirdly, the LPA asserts that the addition of one resident would "result in an increased demand for the already substandard external amenity space". The existing communal external amenity space measures 45m². While it is very unlikely that all 7 residents would occupy the garden simultaneously, this is a matter of planning merits and not one within the remit of this application for a lawful development certificate relating to a material change of use.

5.14. Fourthly, the LPA states that the addition of one resident would "be detrimental to pedestrian and highway safety, as well as the free movement of vehicles on the local highways network". Notwithstanding that once again this is a planning merits consideration and not one within the remit of this application for a lawful development certificate relating to a material change of use, the site provides off-street parking spaces inline with the existing arrangement and no changes are proposed.

5.15. Additionally, the site has a Department for Transport connectivity score of 81/100, which is regarded as very high and given the available public transport, the likelihood that the additional resident would require a private vehicle is low. In the unlikely event this additional resident does use a private car, the impact on the highway of one additional car would be negligible, and would not make the proposal qualify as a material change of use.

5.16. Fifthly, the LPA states that the addition of one resident would "[fail] to provide sufficient secure cycle storage for its occupants". While this, again, is not a consideration within the context of this certificate of lawfulness and relates to the planning merits rather than whether the change of use is a material change of use the cycle store is appropriate given the level of occupation and context of the site. Within the dismissed appeal for 8 occupants, the inspector found that the cycle store was appropriate and suitable provision would be provided.

6. Conclusion

6.1. Accordingly, the proposed increase from six to seven occupants would not, as a matter of fact and degree, constitute a material change of use. It is therefore submitted that on the balance of probability, the proposed 7-person use of this 6-person HMO would remain within the same character and therefore not fall within the definition of development under S55 of the Town and Country Planning Act 1990 meaning planning permission is not required. It is therefore requested that the lawful development certificate be issued.

