



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2025

Appeal Ref: APP/R5510/X/24/3353860

84 Tolcarne Drive, Pinner HA5 2DG

- 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 Mr Nathan Eriemo against the decision of the Council of the London Borough of Hillingdon.
 - The application ref 35338/APP/2024/1664, dated 24 June 2024, was refused by notice dated 12 August 2024.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which an LDC is sought is proposed change of use from C3 (Residential Family Dwelling) to C4 for 6 persons max (small HMO).
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Decision

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

Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.
3. An appeal is determined on the basis of 'all the evidence now available' and an Appellant is entitled to bring forward evidence, in addition to that submitted at application stage, in support of his appeal.

Reasons

4. 84 Tolcarne Drive is a two storey detached dwelling with two living rooms and a kitchen/dining room at ground floor level, and three en-suite bedrooms at first floor level. The proposed change of use would require the conversion of the two living rooms to en-suite bedrooms and the sub-division of the kitchen/dining room to create one further en-suite bedroom. The property would, after alteration, comprise six en-suite bedrooms and a kitchen/dining room. The existing dwelling is a Class C3 dwellinghouse as defined in The Town and Country Planning (Use Classes) Order 1987 (as amended). The proposed use, if each bedroom were to be occupied by one person, would be a Class C4 House in Multiple Occupation (HMO).
5. Under the provisions of Class L of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO) the change of use from Class C3 to Class C4, and vice versa, is permitted development and does not require a grant of planning permission. The Appellant is seeking an LDC simply to confirm this for the appeal property. The Council refused the application

because, they contend, two of the bedrooms are large enough to accommodate two persons and that the HMO would therefore be an eight person HMO, which is a *sui generis* use for which planning permission would be required.

6. The Council claims "...that bedrooms 1 and 4 would both be capable of use by up to two occupants, according to the internal space standards as set out in the London Plan (2021)". The relevant standard is that a two bedspace double (or twin) bedroom must have a floor area of at least 11.5 square metres. Bedrooms 1 and 4 would have floor areas of 14.68 and 12.66 square metres respectively. Based on these floor areas the Council claims that the bedrooms "...would be capable of use by up to two occupants..." and that "...the dwelling could be occupied by up to 8 occupants, contrary to the stated maximum of 6 occupants stated in the application".

7. The dwelling could be occupied by 8 persons but equally it could be occupied by 6 persons. If the application had been for planning permission, rather than for an LDC, then the Council could have considered imposing a condition to restrict occupancy to 6 persons. Such a condition cannot be imposed on an LDC but the restriction is expressly given in the description of the proposed use; 'for 6 persons max'. If the appeal is successful and if the dwelling were subsequently to be occupied on an HMO basis by more than 6 persons then the Council could take enforcement action in the same way as they would against a breach of condition.

8. The Council refused the application only on the speculative basis of what could happen in the future. Whilst granting the appeal would, in fact, serve no purpose, given the Class L permitted development right, it has been made and must be determined. The fact is that the 'Proposed change of use from C3 (Residential Family Dwelling) to C4 for 6 persons max (small HMO)' is development permitted under Class L of Part 1 of Schedule 2 of the GPDO. There is therefore no good reason not to allow the appeal.

9. For the reasons given above, and on all evidence now available, the Council's refusal to grant an LDC for proposed change of use from C3 (Residential Family Dwelling) to C4 for 6 persons max (small HMO) at 84 Tolcarne Drive, Pinner was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

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 24 June 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use is development permitted under Class L of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 08 December 2025

Reference: APP/R5510/X/24/3353860

First Schedule

Proposed change of use from C3 (Residential Family Dwelling) to C4 for 6 persons max (small HMO)

Second Schedule

Land at 84 Tolcarne Drive, Pinner HA5 2DG

IMPORTANT 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: 08 December 2025

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Land at 84 Tolcarne Drive, Pinner HA5 2DG

Reference: APP/R5510/X/24/3353860

Scale: Not to Scale

