
Appeal Decision

Site visit made on 29 November 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 January 2017

Appeal Ref: APP/F5540/X/16/3152825
20 Bristow Road, Hounslow TW3 1UP

- 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 & Mrs A & TN Miah against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00158/20/LAW2, dated 11 February 2016, was refused by notice dated 5 April 2016.
 - 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 the existing use of the dwelling as two 1 bed flats.
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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 considered to be lawful.

Reasons

2. The appellant notes the use as two flats from about 2008. The relevant time for consideration is between 11 February 2012 and 11 February 2016, the date of the application. Tenancy agreements for the ground floor flat and first floor flat commence in 2008 and cover the period up to the present time. The fact that some time has been under a periodic tenancy does not diminish that weight and it is not unusual for 6 month tenancies to continue beyond 6 months until ended by either the landlord or tenant. I acknowledge that these agreements do not necessarily mean that the property has been continuously occupied, but it adds significant weight to the case, because if rent is being paid the flats are reasonably likely to be used.
3. There are also letters from Crystal & Co letting agents which confirm that they have managed the flats starting in 2008. There are records relating to council tax, including an arrears notice identifying the ground floor flat dated 2 May 2012 and notice of a summons related to tax for the first floor dated 26 March 2012 covering the period 17 October 2011 to 31 March 2012. This also covers the period before and at the start of the relevant 4 year period. The council also does not dispute the payment of council tax as records indicate registration from about 2011 for both flats.
4. It is well established that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the local

planning authority has no evidence of its own, or 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".

5. To my mind the evidence is clear and precise and not ambiguous. The appellants claim that the use has been for two flats from 2008, which is well supported by documentary evidence. The Council, while suggesting that the evidence is not sufficient, has no actual evidence to contradict or otherwise make the appellants' claimed occupation less than probable.
6. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of existing use of the dwelling as two 1 bed flats 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.

Graham Dudley

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

The use has continued for more than 4 years prior to the date of the application and therefore the time for enforcement action has expired.

Signed

Graham Dudley

Inspector

Date: 04 January 2017

Reference: **APP/F5540/X/16/3152825**

First Schedule

Existing use of the dwelling as two 1 bed flats

Second Schedule

Land at 20 Bristow Road, Hounslow TW3 1UP

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: 04 January 2017
by **Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS**

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Scale:NTS

