



Appeal Decision

Site visit made on 11 February 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2020

Appeal Ref: APP/N5660/X/19/3230740

53 Jeffreys Road, London SW4 6QD

- 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 Andy Rose against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/03743/LDCE, dated 31 August 2018, was refused by notice dated 30 January 2019.
 - 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 four self-contained flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of the use from the Council's decision notice rather than the appellant's original application form because it more clearly and accurately describes the use for which a certificate of lawful use is being sought.
3. At my site visit I was informed that the property has recently been vacated by squatters and it was in a very untidy and poor condition. However, that does not affect my determination of this appeal and the evidence submitted by parties.

Main Issue

4. The main issue is whether the Council's refusal to grant a certificate of lawful use was well-founded. In this particular case this turns on whether the appellant has proved on the balance of probabilities that the use of the property changed to four self-contained flats on or before 31 August 2014 (the material period) and that the use then continued without significant interruption for four years after the date of the change.

Reasons

5. In an appeal relating to a lawful development certificate the onus of proving the relevant facts rests with the appellant, and the standard of evidence is the balance of probabilities. The appellant's own evidence does not need to be corroborated with independent evidence, and if there is no evidence to

- contradict or otherwise make the appellant's version of events less than probable, the appellant's evidence alone may be sufficient to justify the grant of a certificate provided that it is sufficiently precise and unambiguous.
6. In support of his application, the appellant submitted various utility bills and associated information along with photographic evidence of electricity meters, gas meters and layout details. This appeal is supported by additional evidence including details of when utility meters were installed and correspondence between an energy supplier and the property's manager.
 7. The appeal statement also includes photographs of the property's layout, confirming that there were four kitchens which were used by each of the four respective flats. Street view images claim to show multiple extract flues on the side of the property and images also show four doorbells, though the quality of the images makes it difficult to confirm this. Nonetheless, at my site visit I observed multiple flues on the property. This suggests that there may have been separate units of residential accommodation in the building.
 8. The utility bills cover a continuous period of 2013 to 2017 which corresponds to the relevant material period, but only the first page of each bill is shown which suggests that subsequent detailed billing evidence is missing. The additional pages may include utility meter numbers or addresses which may be helpful in determining the extent of use. In addition, the evidence indicates that each of the flats has had the same tenant for the four year period, which is very unusual in the case of properties such as these and supplemental information would be useful in support of this.
 9. The absence of additional evidence to support the utility bills is notable and there is insufficient information to support or correlate to the bills relates. I have also noted that further evidence was requested by the Council during the application process, but none was forthcoming. As such it is unclear whether the properties have been used for C3 self-contained flat purposes or for alternative uses such as short term letting. It is also my understanding that the appeal property is registered on Council Tax records as a single dwellinghouse rather than as four self-contained flats.
 10. Therefore, although the appellant has submitted some evidence of the use for which approval is being sought, there is a distinct lack of precise supplementary evidence such as tenancy agreements, Council Tax information or statutory declarations from the property owner and tenants, for example. Although the appellant's evidence does not need to be corroborated with independent evidence, the evidence submitted is not sufficiently precise and unambiguous in this case.
 11. Therefore, having regard to the evidence before me I conclude that on the balance of probabilities it has not been satisfactorily demonstrated that the appeal property had been used for four self-contained flats without substantial interruption for the material period of four years leading to the date of the application.

Conclusion

12. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use in respect of the use of 53 Jeffreys Road, London SW4 6QD for four self-contained flats was well-

founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal decision

13. The appeal is dismissed.

A A Phillips

INSPECTOR