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## Appeal Decision

Site visit made on 1 December 2020

**by Simon Hand MA**

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

**Decision date: 07 December 2020**

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**Appeal Ref: APP/H5390/X/20/3252449**

**567-569 Fulham Road and 1 Harwood Road, London, SW6 1ES**

- 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 Danish Hanif against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2019/02161/CLP, dated 11 July 2019, was refused by notice dated 13 December 2019.
  - The application was made under section 192(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 change of use of the second floor, third floor and part of the first floor level from A2 use into 5 self-contained flats (Class C3).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have used the Council's description of development as it better encapsulates the application.

### Reasons

3. The appellants are seeking an LDC for the material change of use of part of the first and all the second and third floors of the property to five residential flats. They claim such a change is permitted development by virtue of Part 3 Class G of the General Permitted Development (England) Order 2015. This allows amongst other things the change of use of a building from any purpose in Class A2 (financial and professional services) to a mixed use of A2 and up to 2 flats. There are various conditions attached but these are not in dispute. The Council maintain the upper floors have not been used for A2 purposes and so the proposed use is not permitted development. A2 is for the provision of financial, professional and other services appropriate for a shopping area where the services are provided principally to visiting members of the public. A2 includes betting offices but excludes health and medical services.
4. The history of the site is not in dispute. It was used as a bank from at least the 1980s until HSBC decided to vacate the premises in 2007. Planning permission was granted for a change of use of part of the building to an A3 use but that was not implemented and in 2009 the owners leased the entire site to

Thamesview Estate Agents who are still in occupation. These uses are all firmly within A2.

5. However, it would seem that Thamesview did not need all the upper floor offices and began to sublet all or some of them from time to time. The appellant provides streetview images showing a solicitor's in 2008 (from before Thamesview's occupation), a weight management and nutrition centre called the Fulham Wellness Centre in 2012 and a company called 'InHouse.com' in 2017. The Wellness centre signage welcomes members of the public to come in for a free consultation so it could have been an A2 use. Equally it sounds to me as if it were a medical or health service which would be a D1 use. InHouse are a premium estate agency and so, according to the appellant likely to be visited by members of the public. Again it is equally possible they were not, especially as they were on the first floor and operated in the premium, international property market which may well not rely principally on visiting members of the public. In both cases of the Wellness centre and Inhouse there is actually no evidence one way or the other, but it is far from certain they were A2 uses.
6. The Council carried out a site visit in relation to the LDC application and they noted offices for a vitamin drinks company and an investment company. Again, neither uses would seem to be A2 uses. I saw on my site visit that InHouse still occupy offices on the first floor and an investment manager and stockbroker 'Redmayne Bentley' occupy the third floor. Other offices were locked and unnamed, but the door bell listed Therapy Room@SW6, Dare Property and BVC Garmence, the latter appear to be a wine importer. I also noted the front door off the street was firmly secured and there was no obvious suggestion that any of the businesses occupying the upper floors welcomed passing members of the public.
7. The only evidence from the appellant is a statutory declaration from the manager of the company that owns the building. He declares that Thamesview have sublet the offices but never applied for a change of use although the majority of the occupants would have been A2 uses. Nevertheless he is in no doubt the building is in lawful A2 use.
8. I do not know why he considers the majority of the occupants would have been A2 uses, there is no evidence to suggest this. It is however clear from this and the appellant's statement that they accept at least some of the uses in the offices have not been A2 and I suspect from the limited evidence I have that this may well be the majority. That such uses may not have received planning permission is neither here nor there. The question asked is whether a change of use to flats relying on Class G would have been lawful on 11 July 2019. For that to be the case the use of the building at that time would have to be for A2 purposes and on the balance of probabilities the evidence I have seen suggests not.
9. There is a secondary issue in that it is far from clear why the appeal site should be considered to be 3 buildings for the purposes of the GPDO. There is only one entrance from the street to the whole of the upper floors, which are interlinked and operate as a single building and it is claimed they are also a single planning unit. That the building has three street numbers is not persuasive, many large buildings in cities have multiple street numbers (Harrods for example is 87-135 Brompton Road) but are considered to be a

single building for planning purposes. However, this was not an issue raised by the Council so I do not need to reach a view on it. My conclusions on the use of the upper floors is sufficient to warrant dismissing the appeal.

*Simon Hand*

Inspector