



Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

Appeal Ref: APP/W5780/X/20/3264454

170 Chester Road, ILFORD, IG3 8PY

- 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 Hasan Patel against the decision of London Borough of Redbridge.
 - The application ref 2667/20, dated 25 August 2020, was refused by notice dated 16 October 2020.
 - 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 two self-contained flats.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's refusal to grant a certificate of lawfulness in relation to the use of the appeal property as two self-contained flats was well-founded.
3. Planning Practice Guidance advises that the applicant is responsible for providing sufficient information to support an LDC application. If a local planning authority has no evidence itself, nor any 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 applicants' evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
4. The Council refused the application because they say that insufficient evidence had been submitted to establish on the balance of probability that the property had been in continuous use as two self-contained flats for a period of four years prior to the date of the application.

Reasons

5. The appellant says that the property has been rented to a letting agency as two self-contained flats since July 2016, and has provided copies of annual tenancy agreements with the letting agency as tenant. The appellant's case is that the tenant placed homeless families in the property and an employee of Woodland Properties Management Limited has provided a statutory declaration which states that it was 'used as two self-contained flats since we took over the management of the property in 1st July 2016.' The appellant has not provided the names, dates or other details of anyone actually living in the property at any point.

6. The Council's own records show that the property has had only one Council Tax registration since 2016, and that there was a period of two months in 2017 when it is likely there were no tenants living there as liability reverted back to the landlord. The appellant has referred to the property being exempt from the payment of Council Tax as the occupiers were classed as homeless but this is not recorded in the information provided by Revenue Control. Whilst I accept that this in itself does not prove that the property was not used as two separate flats, neither does it support the appellant's case. The two month period when liability reverted to the landlord also throws doubt on the assertion that the property had been used as two self-contained flats continuously throughout the alleged four year period.
7. The information from the Council's Housing Department states that an application had been made for registration as an HMO in relation to the property, and that during a visit made on 27 July 2020 there was not a door to the upstairs flat (so that it was not a separate unit). The appellant states that the door was only removed for one day but there is no corroborative evidence before me, and the lack of the door places further doubt regarding the appellant's case that the property was used continuously as two self-contained flats for the period of four years.
8. The information held by the Council is at odds with the appellant's version of events, which was rather scant in terms of detail and supporting evidence in any event. The appellant has not explained these discrepancies, or produced details regarding the dates and names of occupiers, or any other corroborative evidence such as utility bills or correspondence. The appellant's evidence is therefore not sufficiently precise and unambiguous alone so as to prove their case on the balance of probability.

Conclusion

9. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use as two 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.

Zoë Frank

INSPECTOR