



Appeal Decision

by **Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP**

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/L5240/X/21/3285242

789 London Road, Thornton Heath CR7 6AW

- 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 Mukund Patel against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/03519/LP, dated 30 June 2021, was refused by notice dated 6 September 2021.
 - The application was made under section 192(1) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is conversion of existing office into 2No self-contained flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It was not necessary for me to conduct a site visit to determine the appeal, with a decision taken on the evidence before me.
3. For the avoidance of doubt, LDC appeals are concerned with matters of lawfulness and not matters of planning merit.

Main Issue

4. The main issue in the appeal is whether or not the Council's decision to refuse to issue a LDC was well-founded.

Reasons

5. The appellant suggests that the proposed development was lawful on the date of application for the LDC because it benefited from permitted development rights.
6. However, permitted development rights provided by Article 3(1), Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 are subject to limitations and conditions.
7. One such condition in respect to the appeal proposal is that the developer must apply to the Local Planning Authority (the Council in this case) for a determination as to whether its *prior approval* will be required as to a number of issues¹.

¹ Part 3, Class O, Condition O.2.(1) (at the time of the application for the LDC).

8. There is no evidence before me that such a prior approval application has been made. Therefore, the condition has not been met.

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 conversion of existing office into 2No 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.

Andrew Walker

INSPECTOR