

# 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**

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**Appeal Ref: APP/L5240/X/21/3275412**

**1A St Dunstan's Road, South Norwood, London SE25 6EU**

- 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 failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
  - The appeal is made by Mr William Lawrence against the Council of the London Borough of Croydon.
  - The application (Ref 21/00971/LE) is dated 26 February 2021.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended (the Act).
  - The use for which a certificate of lawful use or development is sought is light industrial (Use Class E – Commercial, Business and Service)
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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.

## Application for Costs

2. An application for costs was made by Mr William Lawrence against the Council of the London Borough of Croydon. This application is the subject of a separate Decision.

## Procedural Matters

3. It is not necessary for me to conduct a site visit to determine the appeal, with a decision made on the evidence before me.
4. The Council is not contesting the appeal, being in agreement with the appellant that a LDC should be issued based on the evidence now available.

## Main Issue

5. The main issue in the appeal is whether or not the Council's deemed refusal to grant the LDC was well-founded.

## Reasons

6. The appellant has provided sufficient precise and unambiguous evidence to demonstrate on the balance of probabilities that, on the date of application for the LDC, the premises had been in continuous use as a workshop (light industrial) for rewinding electric motors since 1985 and that the use had not been abandoned. Such evidence is summarised in the Council's appeal statement dated 3 August 2021 and includes an affidavit from the appellant, tax records, bills, and insurance records.

7. Section 191(2) of the Act provides that uses and operations are lawful at any time if no enforcement action may then be taken in respect of them, including because the time for enforcement has expired<sup>1</sup>.
8. Section 171B(3) of the Act provides that, as regards the appeal development, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach. Therefore, immunity from enforcement action has been acquired and the use is lawful.

### **Conclusion**

9. For the reasons given above I conclude, on the evidence now available, that the Council's deemed refusal to grant a certificate of lawful use or development in respect of light industrial use (Use Class E – Commercial, Business and Service) 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.

*Andrew Walker*

INSPECTOR

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<sup>1</sup> And that they do not constitute a contravention of any of the requirements of any enforcement notice then in force. There is no evidence before me that this is the case in this appeal.

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# 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

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**IT IS HEREBY CERTIFIED** that on 26 February 2021 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended) (the Act), for the following reason:

The time for enforcement had expired, as the use had occurred continuously in excess of 10 years (Section 171B(3) of the Act).

Signed

*Andrew Walker*  
Inspector

Date: 11 January 2023  
Reference: APP/L5240/X/21/3275412

## **First Schedule**

Light industrial (Use Class E – Commercial, Business and Service)

## **Second Schedule**

Land at 1A St Dunstan's Road, South Norwood, London SE25 6EU

## 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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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: 11 January 2023

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**Land at: 1A St Dunstan's Road, South Norwood, London SE25 6EU**

**Reference: APP/L5240/X/21/3275412**

Scale: Do not scale

