The Planning Inspectorate

Appeal Decision

No site visit

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 11 October 2023

Appeal Ref: APP/Q5300/X/23/3318615
81 North Circular Road, LONDON, N13 5EQ

- 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 Hassan Djaffer against the decision of London Borough of Enfield.
- The application ref 22/04236/CEU, dated 10 January 2023, was refused by notice dated 7 March 2023.
- The application was made under section 191(1) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is use of premises as two self-contained flats.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A site visit was not necessary as the current use and arrangement of the property as flats is not disputed.

Reasons

3. There is a tenancy agreement from 12 October 2018 to 11 Oct 2019 for a one year term with Mr Golab and Mr Kol. There is a company letting agreement dated 1 July 2020 with Ashdale Services Ltd. It is for a term of 3 years.

4. There are gas safety records

1365064	22 June 2018
1365065	22 June 2018
6665294	28 June 2019
6665295	28 June 2019
00685247	2 July 2020
00685248	2 July 2020
00685391	8 July 2021
00685392	8 July 2021
0011605	8 Jul 2022
0011798	30 July 2022

5. There is a declaration from Mr Panayiotou, undated noting that he resided at the flat from January 2016 to July 2020. He confirms that Mr Golab and Mr Kowalczyk occupied the second flat between 2018 and 2020.

6. There are HMRC Services forms that note the properties (Flat 1st Floor and Flat Ground Floor) are in Council Tax B.

7. For LDCs the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If there is no evidence to contradict it or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence is precise and unambiguous to justify the grant of a certificate on the balance of probability.

8. The period of interest for the LDC is any period 4 years before the date of the application (10 January 2023). The tenancy agreement covers from 12 October 2018 to 11 Oct 2019, then the letting agreement starts 1 July 2020. There is a gap of many months. The evidence to support occupation in between is the unsworn declaration.

9. The gas certificates certify that the boilers have been inspected over the relevant period, but do little to show that the flats were occupied. The HMRC forms also show the use allowed is for flats, but again does not show that they were used in this way at the appropriate time.

10. Overall, I do not consider the evidence provided is sufficient to support the occupation of the flats as claimed.

Conclusion

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

Graham Dudley

INSPECTOR