



Appeal Decision

Site visit made on 29 June 2023

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/W5780/X/22/3295250

12 Norfolk Road, Seven Kings, Ilford, IG3 8LQ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended ("the Act") against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Pervaiz of RYK Ltd against the decision of the Council of the London Borough of Redbridge.
 - The application ref: 4591/21, dated 15 November 2021, was refused by notice dated 12 January 2022.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is C3 Residential units 3 Nos, 12A, 12B, 12C.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Whilst the application was made in the name of Mr Pervaiz and the appeal was made in the name of Mr Pervaiz Khan, both the application and appeal were made in respect of the same company, RYK Ltd. I am therefore satisfied that the application and appeal are brought by the same company and I have determined the appeal on this basis.

Reasons

3. Section 191 of the Act states that if a person wishes to ascertain whether any existing use of buildings or other land is lawful, they may make an application to the local planning authority for a certificate of lawful use or development.
4. In a LDC appeal, the onus of proof is firmly upon the appellant to make their case on the balance of probabilities and the applicant's own evidence does not need to be corroborated by independent evidence. If the council has no evidence of its own to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is sufficiently precise and unambiguous.
5. The appellant needs to demonstrate that, on the balance of probabilities, the building had been used as three self-contained flats for a continuous period of 4 years ending on or before the date of the application without any significant break in occupation.
6. Whilst I appreciate that I must determine whether the matter was lawful on the date that the LDC application was made, namely the 15 November 2021, it is helpful to set out my observations at the time of the site visit. I saw that the

front of the property was numbered as '12', however, it also lists Flat 1, Flat 2 and Flat 3 as being contained within the building. A shared postbox is located within the front door of the premises which leads into a small communal entrance hallway. From here, three lockable doors are present which provide access into the three units of accommodation. I was afforded access into each unit during my visit.

7. Flats 1 and 2 are positioned on the ground floor. Flat 3 is predominantly located on the first floor of the property. Each unit had its own separate electric fuse box located within communal areas (hallway and basement). Flat 3 was the only property with a gas supply and I observed the gas meter to be located within the basement.
8. As a minimum, each unit contains a bedroom, kitchen/diner/living area and an ensuite/bathroom. Flat 3 contained additional rooms, namely further bedrooms, a dining room and a lounge. Each kitchen included a cooker and hob (gas to flat 3 and electric to flats 1 and 2), sink, fridge freezer, washing machine, several cupboards for storage and ample worktop space for the preparation and cooking of meals. A communal garden to the rear of the premises was capable of being accessed from each unit independently. Although the internal space of each unit varies in size, to my mind, they were all reasonably comfortable and spacious living environments with all the facilities necessary for day-to-day private domestic existence.
9. The appellant states that the property has been in use as 3 self-contained flats for at least the last four years. In support, a number of tenancy agreements ("TA") for flats 1 and 2 during the period between 2016 and 2021 were provided to the Council as part of the application. These have not been provided to me as part of this appeal. Nevertheless, the Council refer to those TAs as being unsigned and undated and the appellant has not sought to dispute this point. In these circumstances, I find that these documents do not constitute a valid and binding tenancy agreement and at best, they can only be regarded as an indication of an intention to form a tenancy. There is no actual evidence as to who was occupying flat 3 during the same time frame.
10. The appellant indicates that the use of the property as three self-contained flats commenced on the 1 October 2007. The submitted council tax listings show flats 1, 2 and 3 to be separately listed for such purposes from this date. Additional council tax listings are submitted for the three units with effect from 16 November 2009. A further listing for Flat 3 for the period 1 April 2019-31 March 2020 is given albeit there is nothing for flats 1 and 2 for the same period. Having regard to the submitted council tax information, this provides an incomplete picture and I consider that the continuity of council tax evidence fails to show that continuous occupation of all three units has taken place for an uninterrupted 4 year period.
11. Consequently, I consider that the appellant has not shown on the balance of probabilities that the property has been occupied continuously as three self-contained flats for a 4 year period.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of '*C3 Residential units 3*

Nos, 12A, 12B, 12C' was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

E Brownless

INSPECTOR