



Appeal Decision

by Nick Fagan BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 May 2025

Appeal Ref: APP/P4605/X/24/3345894

32 Manor Road, Stechford, Birmingham B33 8BS

- 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 Joginderpal Chana against the decision of Birmingham City Council.
 - The application ref 2024/00607/PA, dated 30 January 2024, was refused by notice dated 22 April 2024.
 - 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 as a religious place of worship (Use Class F1).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue, as usual in LDC appeals, is whether the Council's decision to refuse a LDC was well-founded.
3. The outcome of the appeal turns on considering relevant aspects of planning legislation including evidence provided and not on assessing matters of planning merit that would normally require a visual site inspection of the premises. I have therefore been able to determine the appeal without a site visit. Neither side has been prejudiced by this course of action.

Reasons

4. S171B of the Act sets the time limits or immunity periods for enforcement action and therefore lawful development. For uses, S171B(3) sets out that this is 10 years.
5. The application form states that the use of the property as a religious place of worship for the Baba Deep Singh Ji Shahid Charitable Society began on 1 April 2014. The application is dated 30 January 2024 and the Council's delegated report says it was accepted on 27 February 2024. Neither of these dates comprises 10 years from 1 April 2014. Hence the current use of the premises as a religious place of worship has apparently not occurred for at least 10 years.
6. The appellant has provided a photograph of an inaugural brass plaque saying that the premises for the Charitable Society was opened by the Lord Mayor of Birmingham on 9 June 2001. However, I'm unclear where this plaque is situated. Photos above the front door of the premises showing banners advertising the 17th and 18th annual function of the Charity have been provided. However, these

banners conflict with the information given above in the application form, stating that the use did not commence until 1 April 2014.

7. The burden of proof in such appeals falls on the appellant. It must be established, on the balance of probability, that the property (which was clearly originally a dwelling house like all the rest of the properties on the road) has been continuously used as a religious place of worship for a 10-year period. This 10-year period can be any period since the time when it was first used as a place of religious worship; it does not have to be a 10-year period immediately preceding the submission of the application.
8. Planning Practice Guidance on LDCs reflects caselaw. It sets out that appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, 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 evidence alone is sufficiently precise and unambiguous (my underlining).
9. However, in this case there is a contradiction in the appellant's evidence. Although the Statutory Declaration by Avtar Singh Jawanda of the Charity says that the property is (presumably has been) a religious place of worship since 9 June 2001, the application form says that this only occurred since 1 April 2014.
10. Consequently, the evidence supplied by the appellant is ambiguous, indeed contradictory. It therefore appears, on the balance of probability, that the property's use as a religious place of worship has not occurred for a full 10 years.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the use of the property as a religious place of worship is 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).

Nick Fagan

INSPECTOR