



Appeal Decision

No site visit made

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2025

Appeal Ref: APP/A5270/X/24/3343270

107 Norwood Road, Ealing, Southall UB2 4DZ

- 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 Mrs Gurpal Sidhu of Jaujar Enterprises Ltd against the decision of the Council of the London Borough of Ealing.
- The application ref 240709CPE, dated 15 February 2024, was refused by notice dated 10 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 the conversion of the property into three self-contained flats.

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 found to be lawful.

Applications for costs

2. An application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

3. An application under s191(1)(a) of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) can only confirm whether an existing use of land is lawful. In this instance, the existing use is said to be the conversion of the property into three self-contained flats, and I have determined the appeal on this basis.
4. In an LDC application, the onus of proof is firmly upon the appellant. The Courts have held that the relevant test of the evidence on matters such as an LDC application is the balance of probabilities¹. The Planning Practice Guidance (PPG) states the 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 their evidence alone is sufficiently precise and unambiguous².
5. Following a change in the legislation which came into effect on 25 April 2024, the time for taking enforcement action in s171B(2) in respect of a breach of planning control consisting in the change of use of a building to use as a single dwelling has been extended to ten years. Even so, that has no bearing on the outcome of this

¹ Thrasyvoulou v SSE & Hackney LBC (No 1) [1984] JPL 732

² Lawful Development Certificates Paragraph: 006 Reference ID: 17c-006-20140306

appeal, as the relevant date for ascertaining whether the use applied for is lawful is the date of the application.

Main Issue

6. The main issue, therefore, is whether the Council's refusal to grant an LDC was well-founded. This turns on whether the appellant has been able to show that, on the balance of probability, the use of the property has been occupied as three self-contained flats continuously, on an uninterrupted basis for more than 4 years prior to 15 February 2024.

Reasons

7. The appeal site is a mid-terrace dwellinghouse located on the northern side of Norwood Road in Ealing. The appellant's case is that the change of use to three self-contained flats comprising Flat 1 (the ground floor flat to the front of the property), Flat 2 (the ground floor flat at the rear of the property), and Flat 3 (at the first floor) took place in July 2007, and that the property was subsequently rented as three flats continuously to the present day. However, the Council maintains its reason for refusing the application, which essentially is that insufficient evidence has been provided to support this claim.
8. The evidence includes 12 month Assured Shorthold Tenancy Agreements (ASTs) signed by the person named as the tenant for each individual flat. The ASTs have been signed and dated on the same day in 2019, 2020, 2021, 2022 and 2023 by the persons named as the tenants of each flat.
9. The appellant has also supplied evidence which shows the three properties have been individually Council Tax banded (Band B) since at least July 2008. Additional evidence has also been supplied at the appeal stage in the form of Council Tax bills at Flat 1 addressed to the same person for the periods between 2017/2018, 2018/2019, 2019/2020, 2020/2021, 2021/2022, 2022/2023, 2023/2024 and 2024/2025. Similarly, there are also Council Tax bills addressed to the person residing at Flat 3 in excess of 4 years from 2019 until 2025. Regarding Flat 2 these details are patchier, in that there are only details of Housing Benefits between 2014, 2015 and 2016 and Council Tax bills for 2022/2023, 2023/2024 and 2024/2025. However, these all relate to the same person identified as the tenant in the signed ASTs.
10. In addition to the Council Tax records and the AST documents, the appellant has provided details of a handwritten rent book over an inclusive period from 2018 until 2024, which highlights the rental income received every month for all three properties for more than the 4 year period. There are also selective licenses for each of the flats with Ealing Council, which indicate that each property is licensed for use as a household from 2020 until 2025, Energy Performance Certificates (EPCs) and electric safety certificates (NAPIT) and other documents suggesting occupation by tenants.
11. Copies of utility bills showing that the flats were each supplied with separate services might have provided additional assistance in verifying the appellant's claim. However, having regard to the evidence already made available, the absence of details concerning utilities and services does not create any significant uncertainty over the use of the property as three self-contained flats for the relevant period. There is no requirement for copies of utility bills or other records to

be provided to support an LDC application. Moreover, it is well-established that an appellant's evidence should not be rejected simply because it is not corroborated by independent evidence.

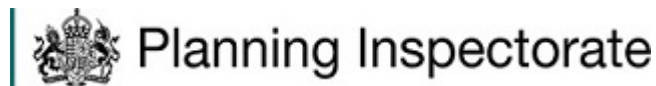
12. In this or any other respect, there is no sound reason which would lead me to believe that the appellant's documentary evidence is not authentic. Therefore, in the absence of any sound reasons which might suggest otherwise, the appellant's evidence should be afforded considerable weight.

Conclusion

13. For the reasons given above, I conclude on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for the conversion of the property into three self-contained flats was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Robert Naylor

INSPECTOR



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

IT IS HEREBY CERTIFIED that on 16 February 2024 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, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The appellant has demonstrated their case on the balance of probabilities that the three self-contained flats have been continuously occupied for a period of more than 4 years.

Signed

Robert Naylor

Inspector

Date: 13 May 2025

Reference: APP/A5270/X/24/3343270

First Schedule

Conversion of the property into three self-contained flats

Second Schedule

Land at 107 Norwood Road, Ealing, Southall UB2 4DZ

IMPORTANT NOTES – SEE OVER

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: 13 May 2025

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Scale: NOT TO BE SCALED

