



Appeal Decision

Site visit made on 19 August 2025

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th September 2025

Appeal Ref: APP/H5960/X/24/3355793

216 Tooting High Street, London SW17 0SG

- 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 Jamil Abdulla against the decision of the Council of the London Borough of Wandsworth.
 - The application ref 2023/2906, dated 1 August 2023, was refused by notice dated 18 December 2023.
 - 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 'ground floor and basement shop converted to residential'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded.

Reasons

3. Section 191(2) of the Act explains that development is lawful at any time if no enforcement action may then be taken in respect of it and it does not constitute a contravention of an enforcement notice. There is nothing before me to suggest an enforcement notice is in force on the land. Section 171B of the Act provides that where there has been a breach of planning control consisting in the change of use of any part of a building to use as a dwellinghouse, no enforcement action may be taken after the end of the period of four years where that material change of use took place before 25 April 2024.
4. Therefore, for the appeal to succeed, the appellant needs to show, on the balance of probabilities, that the material change of use of the ground floor and basement to a dwellinghouse took place at least four years before the date of the application, and that it has remained in use as such without significant interruption. The application form claims that the ground floor and basement were converted into a dwellinghouse and have remained in use as such since 20 December 2016.
5. In support of the appellant's case, copies of gas bills have been provided referring to Flat 1 at the site address over the periods 7 December 2016 to 18 May 2017 and 17 May 2018 to 23 November 2018, as well as an annual gas summary for the period 8 December 2017 to 7 December 2018. Alongside these, there are a Building Regulations Compliance Certificate stating a gas boiler was installed to 'Basement Flat' at the site address on 17 December 2016 and a Landlord Gas

Safety Record relating to the same property dated the same date advising that remedial action was needed to correct a defect with protective equipotential bonding at the meter outlet. There is also an undetailed list of various claimed expenses incurred in relation to the flat between 18 January and 26 August 2016.

6. Two nearly identical tenancy agreements for one tenant have been provided which together cover the period 20 December 2016 to 19 December 2022. These are consistent with a letter dated 4 November 2019 addressed to the appellant from the Branch Manager of Move2, referring to Flat 1 at the site address.
7. An unsigned letter dated 3 June 2024 from Kul Acharya explains that he purchased the property in June 2014, converted it into a three-bedroom apartment over ground and lower-ground floor levels, rented it out, and then sold it to the appellant in 2015, with the appellant then renting it out since. A land registry document referring to the transfer of the site between them is dated 13 January 2016. Mr Acharya's letter conflicts with other claims that the conversion took place in 2016.
8. Aside from the above, there is nothing to show when or how the basement and ground floor were converted into a dwellinghouse with a kitchen, bedrooms, toilets and shower rooms. The undetailed list of expenses, for example, does not explain what specific items were purchased from different building merchants, or what works were undertaken by the builder, plumber and electrician referred to. It is not supported by any detailed explanations, receipts and bank statements, or dated photographs relating to the conversion works.
9. The Council has referred to planning applications previously submitted in respect of the site which refer to its existing use at those times as being commercial and falling within the A1 use class¹ as recent as 2019. I have not been provided with the full details of those applications, but the appellant has not disputed the Council's claim that the 'existing' plans submitted with the most recent application² showed the basement and ground floor laid out as office space with two bathrooms.
10. Overall, the evidence is patchy, undetailed, and inconsistent. It remains unclear, as a matter of fact and degree, when the basement and ground floor flat was created, when the material change of use to a dwellinghouse took place, and whether the basement and ground floor have been in consistent use as a dwellinghouse for any specific period(s).
11. The appellant has failed to provide sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that the basement and ground floor of the site had been in use as a dwellinghouse for at least four continuous years prior to the date of the application for a LDC.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a LDC in respect of the basement and ground floor flat is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

L Douglas INSPECTOR

¹ As defined by The Town and Country Planning (Use Classes) Order 1987 (as amended), as it was at that time

² The Council's ref: 2019/2005