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## 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: 19<sup>th</sup> September 2025

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**Appeal Ref: APP/H5960/X/24/3353678**

**Rear of 256 Battersea Park Road, London SW11 3BP**

- 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 Julie Rumble of New Vintage Ltd against the decision of the Council of the London Borough of Wandsworth.
  - The application ref 2024/2072, dated 16 July 2024, was refused by notice dated 19 September 2024.
  - 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 the use of rear ground and first floor storage area as residential accommodation (Class C3).
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### 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.

### Procedural Matters

2. I have taken the description of the existing use claimed to be lawful for the banner heading above and the attached certificate from the Council's decision notice. This is a more concise description than that provided in the application form, and it accurately reflects the extent of the appellant's claims.
3. Various plans have been submitted. The Council's decision notice and officer report refer to a location plan dated 4 July 2024<sup>1</sup>. That plan shows the entirety of the site edged in red, confirming that the application was made in respect of land including the rear of the site, where a one-bedroom flat is set over ground and first floor levels.

### Main Issue

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

### Reasons

5. 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

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<sup>1</sup> Plan title: TQRQM24186141728686,

taken after the end of the period of four years where that material change of use took place before 25 April 2024.

6. 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 and first floors of the rear of the site 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.
7. The flat is located at the rear of a commercial unit, with a bedroom at first floor level, and a shower room and integrated kitchen/dining/living room at ground floor level. An internal door connects it to the commercial unit at the front, and a door at the back provides access to rear and side passages leading to the street, which are shared with other residential properties. It is claimed that the MCU took place in 2014 without the benefit of planning permission.
8. A photograph has been provided which is described as showing the rear of the site in February 2014, when it is clear that extensive building works were ongoing. I note that planning permission was granted for a single storey rear extension to the site at some point in 2013<sup>2</sup>. Other photographs said to date from 2014 show internal works being undertaken, which included the installation of kitchen units with a kitchen sink, cooker, washing machine, and a boiler, tiling to the shower room, and plaster boarding within the bedroom. An email from the boiler manufacturer confirms that it was manufactured on 12 February 2014 and would have been installed shortly after that date.
9. Other photographs show the flat being used to host a number of gatherings, such as parties and meals, on dates which are claimed to fall between 2014 and 2024. Those photographs show a functional kitchen and furnished dining and living space consistent with what I saw during my site visit. The exact dates on which all photographs were taken have not been provided, though one is dated 10 December 2016, and another is dated 27 March 2022. The other photographs are labelled by a description of the event they show and the year.
10. Further explanations and evidence have been provided as part of the appeal, and the Council has been afforded the opportunity to comment on that evidence. In particular, the Council has not disputed or otherwise commented on the claims set out in a document purporting to be a sworn statement of the appellant, dated 26 February 2025, which sets out a timeline of various events.
11. The timeline provided by the appellant is consistent with and supports the other evidence provided. The document claiming to be a sworn statement explains that the appellant initially rented the shop at the site in 2008, purchased it in 2012, undertook extension and conversion works to it over 2013 to 2014, and has been living there since 2014. The appellant's partner has also been living in the flat since July 2019.
12. Evidence has been provided to show that the property where the appellant previously lived, immediately prior to moving into the flat, was rented out much of the time as short-term lets between May 2014 and February 2017, before it was sold. The evidence also shows that following the sale of that house, the subsequent residential property bought by the appellant in 2017 has been rented out for long-

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<sup>2</sup> The Council's ref: 2013/5087

term periods since at least October 2018. All of this is consistent with the financial backstory provided by the appellant to explain how she came to live at the site.

13. The lack of utility bills referring to the flat specifically rather than a retail business at the site is unsurprising, considering the appellant retains ownership of that commercial unit. I also note the submissions from friends of the appellant which refer to visits made to the flat regularly since 2014, some with photographs attached dated 25 December 2014, 31 March 2016, 20 August 2019, 19 March 2020, and 29 and 30 May 2021.
14. The Council has referred to the lack of a statement sworn on oath presenting the appellant's evidence. Although detailed sworn affidavits or statutory declarations are helpful and can carry significant weight, they are not essential for an LDC to be issued where sufficiently precise and unambiguous evidence has been provided to support the claims being made. In this particular case, not all of the evidence is individually precise and unambiguous, but taken together, there is a wealth of information to show it is more likely than not that the MCU took place in 2014 and the use of the rear of the site at ground and first floor levels as a dwellinghouse falling in the C3 use class<sup>3</sup> has been continuous since.
15. The evidence shows, as a matter of fact and degree, that had the Council been made aware of the flat and inspected the land at any time between 2014 and 2018, it would have likely found an unauthorised dwellinghouse which it could have taken enforcement action against. Considering the evidence now available, on the balance of probabilities, the use of the land as a dwellinghouse became exempt from planning control at some point in 2018, and was lawful on the date of the application for an LDC.

## Conclusion

16. 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 in respect of the use of the rear ground and first floor storage area as residential accommodation (Class C3) is not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the Act.

*L Douglas*

INSPECTOR

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<sup>3</sup> As defined by The Town and Country Planning (Use Classes) Order 1987 (as amended)



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## 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

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**IT IS HEREBY CERTIFIED** that on 16 July 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in blue on Plan B attached to this certificate, which is within the land edged in red on Plan A attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The evidence shows, on the balance of probabilities, that the land edged in blue on Plan B attached to this certificate was converted into a dwellinghouse and has been used as such continuously since at least 2014 without the benefit of planning permission. With regard to sections 171B and 191 of the Town and Country Planning Act 1990 (as amended), no enforcement action could have been taken in respect of that material change of use of the land to a dwellinghouse on the date of the application for a certificate of lawful use or development (16 July 2024). The use of that land as residential accommodation falling in the C3 use class as defined by The Town and Country Planning (Use Classes) Order 1987 (as amended) was therefore lawful on the date of that application.

Signed

*L Douglas*

Inspector

Date: 19<sup>th</sup> September 2025

Reference: APP/H5960/X/24/3353678

### ***First Schedule***

Use of rear ground and first floor storage area as residential accommodation (Class C3)

### ***Second Schedule***

Rear of 256 Battersea Park Road, London SW11 3BP

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 A

This is the plan referred to in this decision dated: 19<sup>th</sup> September 2025

by L Douglas

Rear of 256 Battersea Park Road, London SW11 3BP

Reference: APP/H5960/X/24/3353678

Scale: Not to Scale



## Plan B

This is the plan referred to in the Lawful Development Certificate dated: 19<sup>th</sup> September 2025

by L Douglas

Land at: Rear of 256 Battersea Park Road, London SW11 3BP

Reference: APP/H5960/X/24/3353678

Scale: Not to Scale

