



Appeal Decision

No site visit made

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2025

Appeal Ref: APP/A5270/X/24/3347268

2 Oswald Road, Southall UB1 1HW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the 1990 Act) as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Faisal Ali against the decision of the Council of the London Borough of Ealing.
 - The application ref 233812CPE, dated 8 September 2023, was refused by notice dated 14 November 2023.
 - The application was made under section 191(1)(a) of the Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is use of a dwellinghouse as two self-contained residential units.
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Formal Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the use of a dwellinghouse as two self-contained residential units which is found to be lawful.

Preliminary Matters

2. The description of development is taken from the Council's decision notice, rather than the application form. Although there is no evidence that this was formally agreed, the description contained in the decision notice more accurately reflects the scope of the development which was submitted and determined by the Council and is now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon the description in the decision notice for the purposes of the heading and paragraph 1 of my formal decision above.
3. An application under s191(1)(a) of 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 use of a dwellinghouse as two self-contained residential units, 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. In a LDC case such

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

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

as this, the determination is based on the evidence submitted. It was not therefore deemed necessary to carry out a site visit in the circumstances.

5. The provisions of the Levelling Up and Regeneration Act, which came into effect on 25 April 2024, mean all unauthorised uses are subject to the ten year bar. However, as the application, in this instance, was made on 8 September 2023, the four year bar still applies for unauthorised residential uses. To demonstrate immunity from planning control, the applicant must therefore show that the use has continued on an uninterrupted basis for at least four years from the date of when the LDC application was made. Accordingly, the material date here is 8 September 2019.

Main Issue

6. With reference to the above the main issue is whether the Council's refusal to grant an LDC for the claimed use was well-founded.

Reasons

7. The appeal relates to an alleged change of use of the dwellinghouse at 2 Oswald Road, Southall UB1 1HW to a use as two self-contained residential units. From the evidence before me, both units consist of a bedroom, living room, kitchen and bathroom. The submitted evidence further highlights that the units are inconsistently described as ground floor flat and first floor flat, alongside the description as flat 2 and 2A. In the interests of consistency and clarity, I shall refer to the units as Nos.2 and 2A which relate to the ground floor flat and first floor flat respectively for the purposes of my decision.
8. The submitted information includes two inspection reports for electrical installations dated January 2002 which highlight that the dwellinghouse has been rewired and fitted with two separate consumer boards. Similarly, there are also separate gas safety certificates for No.2 and No.2A dated August 2005 and December 2005 respectively, alongside a follow up certificate for each property both dated February 2016. Whilst this provides an indication of the property being subdivided into two, this alone does not warrant sufficient evidence to conclude that the use as two self-contained residential units has continued on an uninterrupted basis for the relevant four year period.
9. The appellant has submitted several Assured Shorthold Tenancy (AST) Agreements as part of their evidence, which highlight under the tenant's obligations that services are to be paid throughout the term of the AST. Given the provision of the separate external electricity and gas meters as highlighted in the appellants evidence³, separate invoices would have been raised and paid for the use of these services. Therefore, it is unclear why these records would be unavailable at the time of the LDC application and the submission of this appeal, as this information would have provided additional assistance in verifying the appellant's claim the site has been used as two separate residences.
10. Nevertheless, the ASTs do provide significant evidence in how the dwellinghouses have been used. The ASTs show that Mr & Mrs M Omor Faruque signed nine separate 12 month agreements commencing in November 2014 running up to the end of October 2023 for the use of No.2 as a 1-bedroom flat. This is further

³ Appendix A – Appellants Statement of Case

corroborated by the submitted Council Tax records highlighting the same occupants paid the requisite invoices to the Council, from April 2015 until March 2023.

11. There are similar records for the use as No.2A as a separate residence. The ASTs highlight that there has been a continuous tenancy agreement at the property for Ms Aya Maruyama from September 2014 until the end of June 2024. Alongside Council Tax records covering the period April 2017 until March 2023.
12. As part of the appeal submission the applicant has also produced three sworn statutory declarations (SD). Two of the SDs are from Mr M Omor Faruque and Ms Aya Maruyama which state that they were tenants at Nos. 2 and 2A respectively from 2014 until the date of the relevant SD⁴. Mr Faruque's SD also has water and telephone bills and various correspondence appended, which confirm Mr Faruque resided at the relevant address. The third SD is from Mr Faisal Ali the owner of the property who confirms that the dwellinghouse has been used as two self-contained residential units from September 2014. There is no sound reason which would lead me to believe that the appellant's SD evidence is not authentic.
13. When taken together, the combination of ASTs, electrical inspections, gas safety certificates and Council Tax records and the corroborating details contained in the SDs submitted by the appellant, provide compelling evidence to demonstrate the existence of the separate accommodation as described in the LDC application and resided in during the periods specified. Consequently, there is little to suggest that there was any substantial interruption in the use of either No.2 or No.2A during these periods. Furthermore, the Council have provided little evidence to counter the information supplied in the appellants statement of case, accompanying documents or the appellants SDs.
14. As a result, based on the evidence before me, and 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 dwellinghouse as two self-contained residential units for the relevant period, given the abundance of alternative information. As mentioned, the burden of proof is on the balance of probabilities, not beyond all reasonable doubt. Based on the submitted information and lack of evidence to the contrary, I must therefore conclude that 2 Oswald Road has been occupied continuously as two independent, self-contained residential units for the requisite four year period. Accordingly, the appellant has therefore discharged the burden of proof.

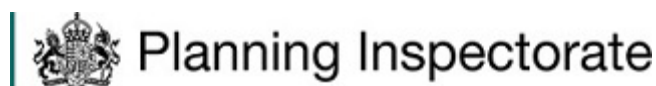
Conclusion

15. For the reasons given above, and on the evidence now available, I conclude that the Council's refusal to grant a certificate of lawful use or development for the use of a dwellinghouse as two self-contained residential units 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.

Robert Naylor

INSPECTOR

⁴ Statutory Declarations Mr M Omor Faruque dated 8 May 2024 and Ms Aya Maruyama dated 10 May 2024.



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 8 September 2023 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, was 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 use of the building as two self-contained residential units has been continuously occupied for a period of more than 4 years.

Signed

Robert Naylor

Inspector

Date: 1 October 2025

Reference: APP/A5270/X/24/3347268

First Schedule

Use of a dwellinghouse as two self-contained residential units.

Second Schedule

Land at 2 Oswald Road, Southall UB1 1HW

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 described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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: 1 October 2025

by Robert Naylor

Land at: 2 Oswald Road, Southall UB1 1HW

Reference: APP/A5270/X/24/3347268

Scale: Not to Scale

