Planning Inspectorate

Appeal Decision

No site visit made

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2025

Appeal Ref: APP/W5780/X/24/3349301
378A Green Lane, Ilford IG3 9JU

- 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 Mrs Perminder Kaur Mudhar against the decision of the Council of the London Borough of Redbridge.
- The application ref 1256/24, dated 2 May 2024, was refused by notice dated 2 July 2024.
- The application was made under section 191(1)(a) of the 1990 Act (as amended).
- The use for which a certificate of lawful use or development is sought is the use of ground floor rear as a self-contained flat.

Formal Decision

1. The appeal is dismissed.

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 LDC decision will rest on the specific facts of the case and the application of relevant and established case law. Planning merits do not form part of the consideration of an LDC appeal and thus are not relevant here. Consequently, as the determination of an LDC case is based on the evidence submitted, in this particular case it was not deemed necessary to carry out a site visit in these circumstances. Neither party has been prejudiced by this approach.

Main Issue

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

Reasons

5. The appellants claim that the existing use is said to be the use of the rear of the ground floor of the building as a self-contained flat known as 378A Green Lane, and I have determined the appeal on this basis. In order for an LDC to be issued in accordance with s191(1)(a), the appellants would need to show that the appeal site on the ground floor at the rear has been used as a self-contained flat uninterrupted for the requisite period, to be immune from enforcement action. In their submissions, both parties refer to the immunity period being four years set out in section 171(B)(2) of the 1990 Act.

6. However, the provisions of the Levelling Up and Regeneration Act (LURA) came into effect on 25 April 2024, which means all unauthorised uses are subject to the ten year bar. Given the LDC application was made to the Council on 2 May 2024, this is after the date the LURA came into effect. Therefore, in order to demonstrate immunity from planning control, the applicant must now show that the use has continued on an uninterrupted basis for at least ten years from the date of when the LDC application was made. Accordingly, the material date here is 2 May 2014.

7. 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 probabilities[1].

8. The appellant has submitted two Statutory Declarations (SD), a formal statement made under the provisions of the Statutory Declarations Act 1835 to affirm that something is true to the best knowledge of the person making the declaration. The SDs have been signed in the presence of a solicitor.

9. The first SD, signed by Mr Amritpal Singh states that he has resided at 378A Green Lane continuously from June 2013. The second SD is signed by Mrs Perminder Kaur Mudhar (the appellant) and states that she owns the whole property and has occupied the upper floor flat (No.378) since March 2006. She also confirms that she extended and converted the ground floor at the rear, in February 2011, to provide a self-contained flat. It was first let in March 2011 and was subsequently rented by Mr Singh in June 2013. There is no sound reason which would lead me to believe that the appellant's SD evidence is not authentic.

10. However, the other submitted evidence is inconclusive to show that the use, subject to the LDC application, has occurred for the uninterrupted period of ten years. The Assured Shorthold Tenancy (AST) Agreements highlight that Mr Singh has agreed a tenancy at the property since at least June 2019. There is also a plethora of correspondence, including gas and electricity safety certificates, direct debit mandates, insurance details, various bills and statements, solicitors' letters and even traffic penalty charge notices all addressed to Mr Singh at the correct address. This correspondence dates back until 2018, and thus whilst highlighting that a residency has taken place, it has not been for the requisite ten year time period.

11. I note that Council Tax records have been submitted which date back until April 2016, however these do not appear to relate to 378A but are addressed to the appellant, who resides in the upper floor flat at 378. There are also Council Tax bills that relate to an alternative address[2], thus, do not have any relevance to the property which is the subject of this appeal. The appellant has also submitted a significant number of utility bills all addressed to her at 378 rather than 378A. The gas and electricity bills have only one meter[3] suggesting that there are not separate utilities for the ground floor flat at 378A. This contradicts the tenant's obligations under the signed AST agreements, where the tenant agrees to pay for these services separately.

12. Furthermore, I am unclear of the relevance of the business rate records, given the lawful use sought under the LDC application relates to one of residential purposes.

[1] Thrasyvoulou v SSE & Hackney LBC (No 1) [1984] JPL 732
[2] 319 Green Lane, Seven Kings, Ilford, Essex IG3 9TL
[3] Gas Meter number G4A02038050501 and Electricity Meter number Z09SP32529

The business rates would provide a rateable value of the premises for the Council to apply business rates to. As such, this information is of little value in concluding the rear of the premises has been occupied for the required ten year time frame.

13. Overall, the submitted evidence lacks detail and is not sufficiently precise and unambiguous for me to conclude, on the balance of probability, that the use of the ground floor at the rear of the premises has been used as a self-contained flat for an uninterrupted ten year period. I acknowledge that the submission of the SDs from the appellant and Mr Singh allege he has lived at the property in excess of the required ten year period, and I have apportioned them weight, accordingly. However, the submitted evidence to date does not corroborate this claim. Whilst this does not mean that the use is unlawful, it does mean that the appellant has failed to provide the necessary evidence for an LDC to be issued on the basis of the application made.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant an LDC in respect of the material change of use to a self-contained flat at the ground floor is well-founded, and consequently the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

Robert Naylor

INSPECTOR