



Appeal Decision

Inquiry held on 3 and 11 September 2025

Site visit made on 3 September 2025

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2025

Appeal Ref: APP/F5540/X/25/3365277

The Firs Lodge, 289-291 Bath Road, Hounslow TW3 3DB

- 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 Mrs Satinder Toor against the decision of the Council of the London Borough of Hounslow.
 - The application ref P/2024/3105, dated 31 August 2024, was refused by notice dated 8 November 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 as a as bed and breakfast.
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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.

Applications for costs

2. An application for costs was made by the Council of the London Borough of Hounslow against Mrs Satinder Toor. An application for costs was also made by Mrs Satinder Toor against the Council of the London Borough of Hounslow. These applications are the subject of separate decisions.

Preliminary Matters

3. As part of their appeal submission, the appellant submitted amended ground and first floor plans. The amended plans did not change the layout or structure of either floor or the rooms on them, but they did update the room numbers. Neither party raised issue with my intention to determine the appeal based on the amended floor plans. I have therefore done so.

Main Issue

4. The main issue is whether the Council's decision to refuse the application was well founded. This turns on whether the appellant can show, on the balance of probability, that 289 and 291 Bath Road have been in use as bed and breakfast accommodation for a continuous period of ten years, and as such, the time for enforcement action has expired or for any other reason. The relevant time period for assessing this is agreed to be 16 September 2014 to 16 September 2024.
5. Furthermore, the Council's decision turns on whether, if it is demonstrated that the use was established for a continuous period of 10 years for a period other than that between 16 September 2014 to 16 September 2024, that use has since been abandoned; and whether No 291 has only ever been for a use within Use Class C1, and the change between different uses within Use Class C1 is not development having regard to section 55(2)(f) of the Act.

Reasons

6. An application for an LDC is not an application for planning permission. Its purpose is to enable the appellant and others to ascertain whether specific operations or activities would be lawful. The burden of proof is upon the appellant. The test of the evidence is one of balance of probability. The appeal concerns only the lawfulness of the matter for which the LDC is sought, not its planning merits. The decision is based on the facts of the case and on relevant planning law and judicial authority.
7. An application under S191(1)(a) of the Act seeks to establish whether any existing use of buildings or other land are lawful. S191(2)(a) confirms that a use is lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason) and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
8. S191(4) of the Act sets out that if, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect.
9. With regard to s191(4) of the Act, the relevant date for ascertaining whether the existing development is lawful is the date of the LDC application. Nevertheless, I have had regard to, and determined the appeal based on the information that was submitted with the LDC application and during the appeal.

289 Bath Road

10. Under s193(4), an LDC may be issued under s191 for the whole or part of the land specified in the application. It is common ground that No 289 has, on the balance of probabilities, been proven to have been used as a bed and breakfast within, at least between 16 September 2014 to 16 September 2024, and that use is therefore lawful. Having regard to the written or oral evidence, I agree with this assessment. There is also no extant enforcement notice relating to the appeal property or any other reason not to issue a certificate to, at the least, reflect this position.

291 Bath Road

11. It is agreed that there is no enforcement notice relating to No 291. No 291 is/has been known as No 291 A, B, C, and D. Collectively they make up No 291, but each relates to different parts of the property.

No 291 A

12. The appellant purchased No 291 A from Adda Hotels (part of the Hilton Group), who were the freeholder of the property, in November 2022. Since this time, there is no dispute that No 291 A has been used as bed and breakfast accommodation. Before 2022, Adda Hotels owned No 291 A and the leasehold title for this unit was held by Hilton International Hotels (UK) Limited (Hilton International), another company within the Hilton Group. This is at least since 2006. In this time, Hilton used No 291 A for temporary staff accommodation. Employees would typically stay for 6 to 8 weeks on Mondays to Thursdays to reflect their working week. The employees worked at Hilton Hotels in the wider area.
13. Hilton employees staying in No 291 A ate in Nos 293 and 295 which were also

used for staff accommodation. This is because No 291 A did not have a kitchen, a fact confirmed by the estate agent who handled the sale in 2022. Consequently, having regard to *Gravesham BC v SSE & O'Brien* [1983] JPL 306, No 291 A did not have the distinctive characteristics of a dwellinghouse in terms of affording those who used it the facilities for day-to-day living. Therefore, No 291 A was not in a C3 use at any point since 2006, and the use that took place continued an earlier use as Rowe's Guest House, a point that the Council does not dispute. The evidence therefore indicates that No 291 A has consistently been in a C1 use.

14. Notwithstanding this, given that No 291 A was a residential premise and used for temporary sleeping accommodation in connection with employment, when sections 25(2)(a) and (b) of the London (Greater Powers) Act 1973 (the 1973 Act) are applied this means that under section 25(1) of the 1973 Act there is a deemed material change of use. In this case that was from a C3 Use Class to a C1 Use Class. Although the Council say that 90-day rule in section 25A(1) and (2) applies, I disagree as non-domestic rates were paid instead of council tax. Hence, the 90-day rule in s25A(2) does not apply because of s25A(3)(b). It was also the case that there were a series of stays in No 291 A, but each was less than the 90-day limit, though they were collectively more than 90 nights per annum. Therefore, applying the 1973 Act, there was a material change of use of No 291 A from a C3 use to a C1 use in any event.
15. There has been no intervening use of No 291 A to the lawful use as C1, and when s55(2)(f) of the Act is applied, the bed and breakfast accommodation, which falls into a C1 use, could be carried out as it was not 'development'. The use of No 291 A was therefore lawful as a C1 use on the date of the LDC application.

291 B, C, and D

16. The appellant purchased the leaseholds for No 291 B, C, and D in 2002 and 2003 after the appellant had started her bed and breakfast business in No 289 in 2000 upon the purchase of that property. That business has continued to this day without interruption based on the appellant's financial records supported by the statutory declaration by Mr Borkhararia.
17. After purchasing the leaseholds, works were undertaken in the form of bathroom provision, and Nos 289 and 291 were joined on the ground floor with a connecting corridor. The works, which took place before 2004, resulted in the layout of Nos 291 B, C, and D that is found on the amended plans. The appellant's husband helped with the installation of the bathrooms, alongside a builder and a labourer. He also stated that he purchased building supplies, though there is no evidence to support this. In 2012, a bridge at first-floor level was added, connecting Nos 289 and 291 at this level also.
18. The appellant's claim that Nos 291 B, C, and D were put to bed and breakfast use is corroborated by the Fire Safety Record from 2008. This shows the ground and first floor layout of Nos 289 and 291 comprising a series of numbered bedrooms that corresponds with the layout that I observed on site and as found on the amended plans. It is unclear why some of the rooms, but not all, are shown to have bathrooms when the author has gone to the trouble to mark several bathrooms. That said, the presence and location of the bathrooms shown corresponds with those found on site and on the amended plans. Further, the report's purpose was a fire risk assessment, and the legend shows the key elements for that assessment. It does not include bathrooms.

19. Even so, the key point is that the layout of No 291 in 2008 is as the appellant stated, and none of the rooms in No 291 B, C, and D could have been used as dwellinghouses if *Gravesham* is applied, as the rooms did not have kitchen facilities. There is also no evidence to suggest that these rooms have ever had portable kitchen equipment either. Moreover, Nos 289 and 291 B, C, and D have been in common ownership and occupation since the works undertaken by 2004.
20. The appellant has also paid non-domestic rates (NDR) since at least 2010. Notably, the NDR Notices issued by the Council for the years 2010/11 to 2024/25 refer to Nos 289 and 291 and as 'Firs Bed and Breakfast'. The property's description is 'guest house and premises'. This does not sit well with the Council's contention that Nos 291 B, C, and D were used as flats, as they would have attracted a council tax payment rather than an NDR payment. There is also no financial incentive for the appellant to have paid NDR if Nos 291 B, C, and D were used as flats, given that council tax rates are cheaper than paying NDR. Furthermore, the Council has not produced any evidence to contradict the appellant's version of events or to explain why NDRs were paid even with them being more expensive.
21. However, the housing benefit overpayment letter dated 14 June 2014 sets out that there was an overpayment of housing benefit in respect of No 291 C between 22 January 2007 and 8 April 2007. This is inconsistent with the claimed use. When added to the absence of NDR records for the years prior to 2010 in an otherwise complete set, together with a council tax query concerning No 291 D in October 2008, this casts doubt on the accuracy of the appellant's version of events before 2010 in terms of how the rooms were used, despite their layout. But this view does not count against the appellant in terms of the relevant period from 2014 onwards.
22. There are separate utility bills for Nos 291 B, C, and D, but they are all addressed to the appellant as the person liable to pay the bills. The bills' submitted date between February 2006 and February 2011. The Council suggest that they are reason to suggest that Nos 291 B, C, and D have been used as flats. However, notwithstanding my findings about the use of Nos 291 B, C, and D before 2010, the appellant fairly explained that the separate bills relate to the separate metres that have historically been present, which have generated separate bills. While the electricity company could amalgamate the meters to produce a single bill, no one else is apparently paying the bills, so I accept the appellant's point that the outcome would be no different. The utility bills are, however, confined to certain years, and as such there is not a full record of them since the appellant claims the bed and breakfast use started. This does not assist the appellant's case, but of the documents that have been provided, it is consistent with her evidence.
23. The Energy Performance Certificate (EPC) dated 31 July 2018 refers to Nos 289 and 291 as a C1 Hotel, this is not determinative as it is not an assessment of the property's use in the manner that I am doing. The Fire Risk Record Form from 2008 and Fire Risk Assessment in 2020, together with the Electrical Installation Condition Reports, dated 28 June 2016, 8 May 2020, and 1 September 2023, which record No 291 as 'commercial' in the description the premises, and the gas safety certification from 2023 all support the use of No 291 B, C, and D as bed and breakfast accommodation. This also borne out by the BACS remittances and invoices that all address the appellant's business at Nos 289 and 291.
24. I heard from numerous witnesses about their experiences of the appeal property, including by friends and family when they were visiting them. The evidence given,

while provided to the best of people's knowledge, was often vague and imprecise, particularly in relation to who stayed, when and where, but also in respect of people being seen coming and going from No 291. That evidence adds little weight to the appellant's case. The exception was the evidence of Mrs Raja, who visited her now husband, who stayed in a room in No 291 for two weeks of 2018. Mrs Raja was able to confirm that she had been into the room and explained what its interior was. This reflected her experience of visiting No 291 each day during her husband's stay. I find this evidence to be reflective of someone's experience of using the property in the claimed manner, and I afford this evidence significant weight.

25. The room booking documentation does not provide a continuous record of room bookings, but it does provide a good breadth of bookings alongside references to specific rooms within No 291 B, C, and D that supports the claimed use as bed and breakfast accommodation. A complete set of room bookings has been provided for 2018, and this shows that there were no double bookings in No 291, that stays were short consistent with the claimed use, and that there were multiple stays in No 291 B, C, and D throughout 2018. Any criticism levelled at the appellant for not providing booking details for No 291 A at this stage is misguided, as the property had not been purchased in 2018.
26. The Council visited the property in 2011 and 2017 in connection with enforcement investigations. The 2011 visit was not connected with the use of Nos 289 and 291 but was instead focused on external matters. That said, the report notes that the appellant's husband said that No 291 had been converted into four flats; a point that is consistent with the appellant's evidence in that No 291 was originally a single dwellinghouse that had been converted into four flats and then into a bed and breakfast. In any event, the officer who visited did not go inside of No 291 so it is not a reliable assessment of the use of No 291 B, C or D. Nor did they in fact say that the property was in use as four flats in the report. The 2011 Enforcement Closure Report does not also comment or conclude on the use of No 291 B, C or D as four flats.
27. A further site visit was undertaken in 2017, but the officer did not go beyond the area around the reception, as they did not go inside any of the rooms. Though through discussions with members of staff, they ascertained that the first floor of No 291 was occupied at the time of the visit as bed and breakfast accommodation, as they had long term residents. Despite the length of people's stay, this would be consistent with a C1 Use Class. The report does, however, refer to a first floor flat, but there is no substantive evidence to support this or to contradict Mr Tomlinson's concession during cross examination about the layout of No 291.
28. The enforcement letter on 23 January 2018 set out the Council's view that No 291 was in use as a bed and breakfast which did not benefit from planning permission, was unauthorised and was at risk of formal enforcement action. That was a positive conclusion on what No 291 was being used for by the Council.
29. However, the officer report from June 2018 explains that after a site visit on 18 May 2018 No 291 was "now three flats, and some flats are used for shorter term tenancy, but it is not operating as a bed and breakfast." This report does, however, have evidential limitations, as there is no distinction between which parts of No 291 are being discussed. This significantly affects its value, bearing in mind how No 291 has been laid out and used historically. That said, reference to two rooms being used for short term accommodation is consistent with the claimed use, and so is

the reference to 'some flats' (must be two as there were only three) being in use for shorter term tenancy as that is consistent with the claimed use. While this leaves the question of how the third flat was being used, I cannot form a view on this given that the report does not distinguish which areas of No 291 were being referred to.

30. Stepping back, the visits and reports undertaken by the Council have evidential limitations owing to the lack of interrogation of the internal parts of No 291 or a clear explanation about which parts of No 291 are being referred to. When this is coupled with evidence from these visits that corroborates the claimed use, it means that at best the Council's evidence attracts limited to moderate weight. However, when this is weighed against the appellant's evidence, even if there are some inconsistencies, I conclude that, on the balance of probabilities, No 291 B, C, and D have been used as a bed and breakfast within Class C1 for at least the period between 16 September 2014 to 16 September 2024. As such, no enforcement action could be taken when the LDC was submitted.

Conclusion

31. 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 bed and breakfast is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the Act.

Andrew McGlone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Henderson of Counsel

He called:

Santinder Toor Appellant

Pritpal Toor

Iqbal Singh Nagi

Preet Sarkaria

Yasmeen Akhtar Raja

Subhas Borkhatria Accountant, Chancellors LLP

Muhammas Nadeem

FOR THE LOCAL PLANNING AUTHORITY:

Michael Jones Solicitor

He called:

Robert Tomlinson Town Planning Apprentice, the Council of the
London Borough of Hounslow

Jack Savage Planning Enforcement Officer, the Council of the
London Borough of Hounslow

INQUIRY DOCUMENTS

ID1 Appellant opening submissions

ID2 Suggested plan of 289 and 291 A

ID3 Council of the London Borough of Hounslow closing submissions

ID4 Appellant closing submissions

Plan

This is the plan referred to in the Lawful Development Certificate dated: 13th October 2025

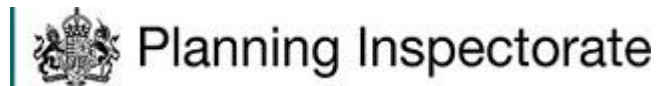
by **Andrew McGlone**

Land at: The Firs Lodge, 289-291 Bath Road, Hounslow TW3 3DB

Reference: APP/F5540/X/25/3365277

Scale: Not to Scale





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 September 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use falls within Class C1 of The Town and Country Planning (Use Classes) Order 1987 (as amended).

Signed

Andrew McGlone

Inspector

Date: 13th October 2025

Reference: APP/F5540/X/25/3365277

First Schedule

Bed and breakfast

Second Schedule

Land at The Firs Lodge, 289-291 Bath Road, Hounslow TW3 3DB

IMPORTANT NOTES

1. This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. 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.
3. 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.