



Appeal Decision

by John Braithwaite BSc(Arch) BACh(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2025

Appeal Ref: APP/U5360/X/24/3337724

143 Elderfield Road, London E5 0AY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Ms Nalan Coskun against the decision of the Council of the London Borough of Hackney.
 - The application ref 2023/0614, dated 13 March 2023, was refused by notice dated 23 January 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which an LDC is sought is the conversion of a single dwelling house into two flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 143 Elderfield Road is a two-storey dwelling with, at a basement level, a single bedroom flat. The Appellant maintains that the basement flat was occupied continuously, independent of the dwelling, for the four year period prior to the date of the application and that the conversion of what was a single dwelling house into two residential units is immune from enforcement action. To be immune from enforcement action the Appellant must provide sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probabilities, that the basement flat was continuously and independently occupied from 13 March 2019 to 13 March 2023.
4. The Appellant has submitted many documents in support of her appeal. Some of these documents suggest occupation of a property by a Mr K Hoque, but on some documents, such as his payslips, his address is 90 Plaistow Lane, Bromley. Mr Hoque's offer of employment dated 22 June 2018 is also offered in evidence; but this also indicates his address to be in Bromley. Many submitted documents, in fact, make no reference to the basement flat or to occupation of any part of the property. Gas, electricity, and building control certificates and correspondence are irrelevant.
5. A letter dated 22 January 2023 from the Valuation Office Agency to 'The Council Tax Payer' at 'Basement Flat At 143 Elderfield Road' identifies an alteration to an entry in the valuation list to have been effective from 23 May 2020. A shorthold tenancy agreement for occupation of 'Basement Flat, 143 Elderfield Road' by Mr Andrew Bennett is offered in evidence but this is for the period 30 July 2021 to 29 July 2022. Mr Bennett's occupation is also referenced in other documents but, again, for the

period commencing 30 July 2021. Many bank statements in the Appellant's and her husband's name are submitted in evidence but do not identify any income specifically derived from letting the basement flat. A tenancy agreement for the lease of 143 Elderfield Road dated 20 October 2016 is offered in evidence but this is not specific to the basement flat and, as it is written, could have been for the lease of the dwelling. There is no specific evidence of occupation of the basement flat before 2020.

6. Evidence submitted in support of the appeal is imprecise and ambiguous and does not demonstrate, even on the balance of probabilities, that the basement flat was continuously and independently occupied between 13 March 2019 and 13 March 2023. For the reasons given the Council's refusal to grant an LDC was well-founded and the appeal fails. The powers transferred in section 195(3) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector