



Appeal Decision

No site visit made

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2025

Appeal Ref: APP/M5450/X/24/3348813

23 Aberdeen Road, Wealdstone, Harrow HA3 7NF

- 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 Ermal Asllani against the decision of the Council of the London Borough of Harrow.
- The application ref PL/0804/24, dated 7 March 2024, was refused by notice dated 12 June 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 described as the retention of existing self-contained 4-studio units as residential flats.

Formal Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use for the retention of the existing self-contained 4-studio units as residential flats which is found to be lawful.

Preliminary Matters

2. 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 LDC is seeking a change of use to four self-contained studio flats, and I have determined the appeal on this basis. The determination is based on the evidence submitted. It was not therefore deemed necessary to carry out a site visit in the circumstances, and no parties would be prejudiced as a result.
3. 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.
4. The application was made prior to 25 April 2024, when the relevant provisions of the Levelling up and Regeneration Act (LURA) 2023 came into effect. Consequently, it must be proved, on the balance of probability that the use has taken place on an uninterrupted basis since or before 7 March 2020, i.e. four years prior to the date of the submitted application.

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

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

Main Issue

5. The main issue is whether the decision of the Council of the London Borough of Harrow to refuse to grant an LDC for the claimed use was well-founded.

Reasons

6. The appeal site is a mid-terrace property located on the eastern side of Aberdeen Road in Harrow. Planning permission³ was granted in May 2019 for the conversion of a dwellinghouse into two flats. However, the Council as Local Planning Authority (LPA) were notified of a potential breach in planning control, as the conversion was not in accordance with the approved plans. An enforcement investigation⁴ was set up, for enforcement officers to investigate whether the upper floors had been converted into 4 separate 1 x bed flats (studio). The case remains open; however, I have not been provided with any evidence that any formal enforcement action has been taken in respect of the alleged breach.
7. The appellant maintains that the change of use as four self-contained studio flats comprising of units 2, 3, 4 and 5 on the upper floors of the property, and their subsequent rental as four flats has been continuous since 2019 until the present day. However, the LPA maintains its reason for refusing the application, which essentially is that insufficient evidence has been provided to support this claim.
8. The LPA allege that an enforcement officer undertook a site visit at the property in February 2024 where photos were taken of the interior of the property. These have not been provided by the LPA despite my request for this information. The LPA confirm that some of the rooms benefited from kitchenettes, however they allege these did not contain cooking facilities within the rooms. Therefore, the LPA considered that these units would not meet the definition of a self-contained flat as set out in the Housing Act 2004⁵. The LPA also claim they were occupied by a single resident rather than separate tenants. Furthermore, the LPA considered the units were in use as a house of multiple occupation, despite the lack of communal facilities. These views appear to be predicated on the enforcement investigation and photographs, which are unavailable at this time.
9. The appellants evidence, on the other hand, is significantly more verified, consistent and precise in support of their claim. The appellant has submitted numerous 12 month Assured Shorthold Tenancy Agreements (ASTs) signed by the person named as the tenant for each individual flat. The ASTs have been signed and dated on the same day⁶ in 2019, 2020, 2021, 2022 and 2023 by the persons named as the tenants of each flat⁷. The appellant has also supplied evidence which shows the four properties have been individually Council Tax banded (Band A) since at least 2019. Additional evidence has also been supplied in the form of Council Tax bills which are addressed to the same person identified as the tenants in the signed ASTs.
10. In addition to the Council Tax records and the AST documents, the appellant has also produced two sworn statutory declarations (SD). The first SD is from Mr Gestjan Poci which states that he was a tenant at flat 2 from December 2019. Mr Poci's SD also confirms that the unit, within which he resides, has always contained a kitchenette,

³ London Borough of Harrow Planning Ref: P/1322/19

⁴ London Borough of Harrow Enforcement Ref: ENF/0058/20/P

⁵ Section 254(8)

⁶ 15th December

⁷ Flat 2 – Gestjan Poci; Flat 3 Anxhela Poshja; Flat 4 – Martha Grzeszczyk; Flat 5 – William Sanchez

bed and en-suite bathroom. The other SD is from Mr Ermal Asllani the owner of the property since 2015, who confirms that 23 Aberdeen Road has been rented as four self-contained residential units from December 2019. There is no sound reason which would lead me to believe that either of these SD are not authentic.

11. The submitted SDs indicate that the relevant rent payments need to be made by the tenants to the appellant. Subsequently, there should be records available, such as bank statements, invoices or rent book receipts which could have assisted the appellant in providing further evidence to corroborate their claim. The ASTs also highlight that tenants were required to pay services separately, and again there should be copies of utility bills which would verify this. Nevertheless, having regard to the evidence already made available, the absence of utility or service bills does not create any significant uncertainty over the use as four studio flats for the relevant period, nor is there a requirement for these to be provided to support an LDC application. Moreover, it is well-established that an appellant's evidence should not be rejected simply because it is not corroborated by independent evidence.
12. When taken together, the combination of ASTs, 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 flats 2, 3, 4 and 5 at 23 Aberdeen Road during the relevant periods. Furthermore, the LPA despite requests have provided little evidence to counter the information supplied in the appellants statement of case, accompanying documents or the appellants SDs.
13. 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 as four self-contained studio flats for the relevant period. Based on this submitted information and lack of evidence to the contrary, I must therefore conclude that the appeal site has been occupied continuously as four independent, self-contained studio flats for the requisite four year period. Accordingly, the appellant has therefore discharged the burden of proof.

Other matters

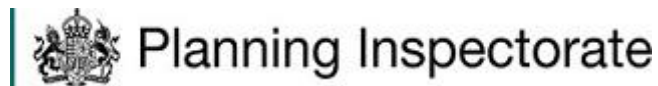
14. Interested parties have raised concerns in respect to the loft conversion and potential impacts with respect to compliance with Building Regulation and matters of trespass. Given these matters are controlled under other legislations, it would not be appropriate to assess these matters through the planning regime, and therefore they are not relevant to this LDC appeal.

Conclusion

15. For the reasons given above, I conclude on the evidence now available, that the Council's refusal to grant a certificate of lawful use for the retention of the existing self-contained 4-studio 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 (as amended).

Robert Naylor

INSPECTOR



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 19 March 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 appellant has demonstrated their case on the balance of probabilities that the use of the building as four self-contained residential units has been continuously occupied for a period of more than 4 years.

Signed

Robert Naylor

Inspector

Date: **30 October 2025**

Reference: APP/M5450/X/24/3348813

First Schedule

The retention of the existing self-contained 4-studio units as residential flats

Second Schedule

23 Aberdeen Road, Wealdstone, Harrow HA3 7NF

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: **30 October 2025**

by Robert Naylor

Land at: 23 Aberdeen Road, Wealdstone, Harrow HA3 7NF

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Scale: Not to Scale

