Planning Inspectorate

Appeal Decisions

Site visit made on 18 September 2025

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2025

Appeal A Ref: APP/Q5300/X/24/3345639
Appeal B Ref: APP/Q5300/X/24/3353440
9 Blagdens Close, Enfield, Southgate N14 6DE

- The appeals are made under section 195 of the Town and Country Planning Act 1990 (as amended) against refusals to grant a certificate of lawful use or development (LDC).
- The appeals are made by Mr Surinder Atkar against the decisions of the Council of the London Borough of Enfield.
- In Appeal A the application ref 24/01079/CEU, dated 28 March 2024, was refused by notice dated 28 May 2024.
- In Appeal B the application ref 24/02346/CEU, dated 19 July 2024, was refused by notice dated 16 September 2024.
- The applications were made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
- The use for which a certificate of lawful use or development is sought is 'garage flat shown edged red on the location plan as a single dwellinghouse.'

Decisions

1. The appeals are allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Preliminary Matters

2. The appeals relate to the same site and use and are therefore considered together. The application subject of Appeal B was submitted following the refusal of that subject of Appeal A and included additional information, intended to address the Council's reason for refusal. Although such evidence was not submitted with the first application (Appeal A) the appeals are linked and I must have regard to all of the evidence, since the purpose of the LDC provisions are to enable the making of an objective decision based on the best facts and evidence available when the decision is taken.

3. Accordingly, it is only necessary to issue a single certificate, and I have therefore taken the description of the use from the application form for Appeal A, since that is a more accurate description of the use.

Main Issue

4. The main issue is whether the Council's refusals to issue an LDC were well-founded.

Reasons

Background and Statutory Framework

5. The garage flat has its own entrance to the rear and includes an open plan kitchen sleeping/living space with an ensuite bathroom. The kitchen includes cupboards for food storage with a small work surface where food could be prepared and washing up area. There is also a washing machine, cooker, microwave, and fridge freezer. Consequently, although modest, the garage flat provides all the facilities to enable day-to-day private domestic existence and constitutes a dwellinghouse.

6. Where there has been a breach of planning control consisting of a material change of use of a building to a dwellinghouse, where the use took place before 25 April 2024, by virtue of section 171B(2) of the 1990 Act, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

7. For the appeal to succeed, the appellant would need to demonstrate that the garage flat has been used as a dwellinghouse on a substantially uninterrupted basis for not less than four years prior to the date of the applications.

8. Where an LDC is sought, the onus of proof is on the appellant, and the standard is the balance of probabilities.

9. Planning Practice Guidance states that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The appellant's evidence

10. The appellant's evidence consists of affidavits from himself, wife and son, along with the occupant of the garage flat and builder who carried out the internal works to the garage. Amongst the affidavits are undated photographs of the garage flat, along with a floor plan and copy of an assured shorthold tenancy (AST).

11. In the appellant's affidavits, it is stated that he has lived at the property with his wife and son since 2010. It is set out that the garage already had an electrical supply with lights, water and central heating and was plastered and decorated, with an entrance from the garden. Then, in November 2011, the appellant invited a number of builders to provide quotes for creating a self-contained flat in the garage by adding a kitchen and bathroom. Mr Ranjit Singh was given the work which was begun within days of the contract being given and completed within two weeks. A kitchen was installed along with an en-suite bathroom, and the garage flat was painted and fitted with carpet.

12. The appellant stated that the garage flat was initially used to accommodate visiting family and friends but was let to Ms Pavan Amara in February 2012 who was issued with an AST commencing on 12 February 2012 – with an initial period of six months. It is stated that Ms Amara has lived continuously in the garage flat since that time until now and that the tenancy was held over, with rent paid in cash and including gas and electricity.

13. This is corroborated by the affidavits of Sandeep and Jovan Atkar, the appellant's wife and son and the builder Ranjit Singh, who in his affidavit set out the works which were carried out, including the fitting of a kitchen and bathroom and includes an estimate for the works, albeit that is undated.

14. In her affidavit Pavan Amara stated that she is a nurse and midwife and attached is a signed copy of the AST dated 10 February 2012, with the first rent payment to be made on 12 February 2012. Ms Amara also stated that her tenancy has been holding over since the expiry of the fixed term and is presently held over on a monthly basis. Ms Amara reiterated that the garage flat was self-contained and has been her sole and only residence from 2012 until present and she has been on the electoral register for the garage flat throughout the whole of this period.

15. I note that Ms Amara's affidavit is dated around 16 months before the date of the applications and there is little explanation for this. However, the appellant in his affidavit dated 26 March 2024, stated that Ms Amara was still residing in the garage flat. Moreover, based on observations at my visit, the garage flat was occupied, probably by Ms Amara, given the presence of what appeared to be nursing uniforms.

16. Based on the affidavits and information therein it seems likely the works to create the garage flat were carried out in around November 2011 and the garage flat was occupied continuously by Ms Amara from February 2012 until the date of the applications.

17. Those affidavits were sworn before a solicitor, and those who made them have properly attested to the truthfulness of their evidence. Those accounts are consistent and sufficiently precise and unambiguous. The appellant's evidence should therefore be afforded significant weight, unless there is evidence that might indicate otherwise.

18. In this respect the Council noted, and I acknowledge that the floor plan indicates that the bathroom door opens to the right, where in fact it opens to the left. However, given that the floor plan generally reflects the layout of the garage flat, it seems likely that this is simply a drawing error.

19. The garage flat shares utilities including gas and electricity with the main dwelling, the rent including such bills and the garage flat is not rated separately for Council Tax purposes. Nevertheless, as the available evidence is that the garage flat and main dwelling have been occupied by the same persons since February 2012, the utility and rating arrangements are longstanding. Over such a period, it is reasonable to expect that the appellant has built up a level of trust and amicable relations with his tenant. It is therefore perhaps unsurprising that shared arrangements in relation to the utilities have persisted in the absence of anything requiring change, such as a change in tenants or their circumstances.

20. In any event, the existence of shared utilities or separate Council Tax rating are not determinative as to whether a separate unit of residential accommodation has been created.

21. The Council also referred to plans accompanying planning applications for development of the main dwelling, including that relating to the conversion of the house to flats and a single storey rear extension, where the plans show the appeal

site labelled as an existing garage. However, the appellant stated, the garage was not included nor, subject of those applications.

22. There is no evidence that those who produced the plans had investigated the use of the garage, and it seems entirely possible that they simply took a description of the garage at face value without investigating its use and focussed on the matter on which they had been instructed. Consequently, I afford this matter limited weight.

23. Therefore, as a matter of fact and degree, the evidence presented indicates on the balance of probabilities, that the garage flat has been used as a single dwellinghouse for a continuous period of more than four years before the application dates. There is little evidence which contradicts or makes the appellant's version of events less than probable.

Conclusion

24. For the reasons given above, I conclude, on the evidence now available, that the Council's refusals to grant a certificate of lawful use or development for the use of the garage flat as a single dwellinghouse were not well-founded and that the appeals should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Felicity Thompson

INSPECTOR

Planning Inspectorate

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 28 March 2024 and 19 July 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 available evidence demonstrates that, on the balance of probabilities, the use of the garage flat as a single dwellinghouse began more than four years before the date of the applications and has been continuous thereafter.

Signed

Felicity Thompson

Inspector

Date: **03 November 2025**
References: APP/Q5300/X/24/3345639 and APP/Q5300/X/24/3353440

First Schedule

Garage flat shown edged red on the location plan as a single dwellinghouse.

Second Schedule

9 Blagdens Close, Enfield, Southgate N14 6DE

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, on the certified dates 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.

Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 03 November 2025

by Felicity Thompson

Land at: 9 Blagdens Close, Enfield, Southgate N14 6DE

References: APP/Q5300/X/24/3345639 and APP/Q5300/X/24/3353440

Scale: Not to Scale

Site Plan - 9 Blagdens Close London N14 6DE