



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 18 November 2025

Appeal Ref: APP/L5810/X/24/3346397

41 Richmond Hill, Richmond upon Thames TW10 6RE

- 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 Mr Henry Dyson against the decision of Richmond Upon Thames London Borough Council.
 - The application ref 24/0915/ES191, dated 12 April 2024, was refused by notice dated 4 June 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 use as a single dwellinghouse.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the existing use which is found to be lawful.

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. 41 Richmond Hill is a three storey property. For the claimed use of the property to be immune from enforcement action and thus lawful its use as a single dwellinghouse must have occurred more than four years before the date of the application, and the use must have subsisted throughout the four year period. The onus of proof is on the Appellant. However, the Planning Practice Guidance states that "...if a local planning authority has no evidence itself, nor from any 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 version of events is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability".
4. The application was accompanied by a title deed and plan, Council Tax payment history from 2006 to the present, utility bills and a letter from a neighbour, in which Mr Scattergood states that, since the appeal property was purchased by the Appellant and his wife, "...I have only known the property to be used as a single dwelling house and was solely occupied as a family home by Mr Dyson, Ms Moore and their children". The letter does not need to be signed by a solicitor to be given significant weight. The Council has no evidence of its own, and there is no evidence from others, to contradict the Appellant's case. His evidence, taken together, is compelling and is sufficiently precise and unambiguous to justify a conclusion that the use of his dwellinghouse has subsisted throughout the four year period prior to the date of the application.

5. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use as a single dwellinghouse at 41 Richmond Hill, Richmond upon Thames was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

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 12 April 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black 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 has subsisted continuously for in excess of four years.

Signed

John Braithwaite

Inspector

Date: 18 November 2025

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First Schedule

Use as a single dwellinghouse

Second Schedule

Land at 41 Richmond Hill, Richmond upon Thames TW10 6RE

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: 18 November 2025

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Land at 41 Richmond Hill, Richmond upon Thames , TW10 6RE

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Scale: Not to Scale

