



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 19 November 2025

Appeal Ref: APP/A5270/X/24/3345492

57 Hazeltree Lane, Northolt UB5 6XA

- 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 Almas Ahmed against the decision of the Council of the London Borough of Ealing.
- The application ref 233601CPE, dated 21 August 2023, was refused by notice dated 2 April 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 of a single storey outbuilding as a self-contained flat.

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. 57 Hazeltree Lane is a two-storey semi-detached dwelling. The outbuilding that is the subject of the appeal is in the rear garden to the dwelling. The onus of proof is on the Appellant who must have submitted sufficient precise and unambiguous evidence to demonstrate, on the balance of probability, that the use of the outbuilding as a self-contained flat subsisted continuously for, in this case, the four year period prior to the date of the application; the four year period being 12 April 2020 to 2 April 2024.
4. The tenant of 57 Hazeltree Lane, Asad Ali, has provided a sworn affidavit in which he states that he has been living in the dwelling since August 2018. He also states that "...when I moved into my residence...a gentleman of around the age of 35 years was living at the outbuildings at the rear...I can confirm that this person has been continuously living at the said outbuilding to date". The Appellant, who lives at 34 Hazeltree Lane, has provided tenancy agreements for occupation of the outbuilding.
5. The first agreement is for the one year period 1 January 2019 to 31 December 2019 and the tenant is R Z J Bibi. The second and third agreements name the same tenant and are for 2020 and 2021. The fourth agreement names the same tenant and is for a one month period 1 January to 31 January 2022, and the fifth agreement names the same tenant and is for a four month period 1 January to 30 April 2023. The sixth agreement is for a one month period 12 June to 12 July 2023 and is for two tenants, K Odedra and K Modhwadiya. The seventh agreement is for a tenancy by R Z J Bibi and is for the one year period of 13 July 2023 to 13 July 2024.

6. It is unlikely that the Appellant, who is the landlord, and a tenant would enter into a tenancy agreement for a period of one month; the fourth agreement. So it likely that the end date of the tenancy, 31 January, is an error and should have been 31 December. Taking this likelihood into account but from the tenancy agreements, the outbuilding was occupied by R Z J Bibi during the four year period prior to the date of the application before 30 April 2023 and after 13 July 2023. During R Z J Bibi's two and a half months non-occupation of the outbuilding it was occupied for one month by two other tenants. This evidenced non-occupation by R Z J Bibi casts doubt on the affidavit by Asad Ali. Evidence indicates that the outbuilding has not been occupied by the same tenant continuously during the four year period. There is, furthermore, no evidence of occupation of the outbuilding between 30 April and 12 June 2023.

7. There is no documentary evidence other than the affidavit and the tenancy agreements; there are no utility or Council Tax bills for instance. The tenancy agreements do not show continuous occupation of the outbuilding and do show that occupation has not always been by the same tenant, which casts doubt on the affidavit. The Appellant has not submitted sufficient precise and unambiguous evidence to demonstrate that the use of the outbuilding as a self-contained flat subsisted continuously for the four year period prior to the date of the application.

8. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use of a single storey outbuilding as a self-contained flat at 57 Hazeltree Lane, Northolt was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector