



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 27 November 2025

Appeal Ref: APP/Q5300/X/24/3350531

395 Montagu Road, London N9 0HL

- 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 Hasan Boz against the decision of the Council of the London Borough of Enfield.
 - The application ref 24/01558/CEU, dated 14 May 2024, was refused by notice dated 2 August 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 second floor flat as 2 self-contained units.
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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. 395 Montagu Road is a two-storey plus attic corner property. It is in commercial use at ground floor level, there are three flats at first floor level, and two flats in the attic, nos. 4 and 5. The appeal relates to the attic flats which were, claims the Appellant, created by the sub-division of a single flat, no. 4, over five years ago. To be immune from enforcement action and thus lawful the sub-division of the second floor flat must have occurred more than four years before the date of the application, and the two flats that were created must have been occupied continuously for a four year period. The onus of proof is on the Appellant who must provide sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probabilities, that the two flats were continuously occupied, once created, for a four year period.

4. The Appellant has submitted a great deal of documentary evidence, though some it, such as safety certificates, is irrelevant. There are a few tenancy agreements but these are for Flat 4 and could relate to the previous Flat 4. There are gas and electricity bills for Flats 4 and 5 dating from as far back as 2011 and up to 2021, the majority being for 2018 and 2019. There is a Council Tax bill dated 22 October 2018 for Flat 4 though, again, this could relate to the previous Flat 4. The upper floors of the property, in fact, have been registered for Council Tax since 2010 for four residential units. The documentary evidence is inconclusive, imprecise and ambiguous and does not justify a conclusion, even on the balance of probability, that the two flats in the attic have been continuously occupied for a four year period.

5. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use of second floor flat as 2 self-contained units at 395 Montagu Road, London 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