



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 04 December 2025

Appeal Ref: APP/T5150/X/24/3353189

27 Ballogie Avenue, London NW10 1SU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mr. William McGowan against the Council of the London Borough of Brent.
 - The application ref 24/1664 is dated 17 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 retention of 7 room House in Multiple Occupation (HMO).
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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. An application for an LDC is submitted to establish the lawfulness of development, either the use of land or building operations. The grounds of appeal refer, principally, to the chronology of events that resulted in an appeal against non-determination of the application, which is not relevant. In the conclusion it is stated that "...it is our understanding that the proposal should be acceptable and comply with policies". Compliance with planning policy is not relevant in an LDC application or appeal.
4. The Appellant has submitted an 'affidavit' but it has not been sworn before a Commissioner for Oaths so is no more than a letter, which claims that his property has been an HMO for more than four years. The Appellant also claims that "The supporting evidence to confirm my statement includes HMO License and drawings". The HMO Licence is not in evidence but even if it were it would not demonstrate HMO use, in planning terms, of the appeal property. Drawings are helpful but not relevant.
5. More importantly, setting aside the chronology of events which is not relevant, the Council issued Enforcement Notice E/24/0366 on 14 October 2024, which relates to the appeal property and which took effect on 23 November 2024. The notice alleges 'the material change of use of the premises to an HMO and landlord storage'. There is no evidence to indicate that the notice has been withdrawn and it therefore remains in force. Section 191(2)(b) of the Town and Country Planning Act 1990, in effect, declares that an LDC for an existing use cannot be granted if an enforcement notice is in force that requires the cessation of the use.

6. The LDC sought is for an existing use and Enforcement Notice E/24/0366 requires the cessation of the use. In these circumstances an LDC cannot be granted.

7. For the reasons given above, had the Council refused to grant an LDC in respect of retention of 7 room House in Multiple Occupation at 27 Ballogie Avenue, London that refusal would have been 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