



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal Ref: APP/W5780/X/24/3354015

391 High Road, Ilford IG1 1TF

- 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 Avtar Singh against the decision of the Council of the London Borough of Redbridge.
 - The application ref 2008/24, dated 16 July 2024, was refused by notice dated 20 September 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 shop used as takeaway for consumption off the premises.
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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. The Appellant is seeking to establish that the takeaway use of the appeal property is immune from enforcement action and is thus lawful. To be immune from enforcement action the use must have subsisted for in excess of ten years prior to the date of the application. The onus of proof is on the Appellant who must submit sufficient precise and unambiguous evidence to demonstrate, on the balance of probability, that the use as a takeaway subsisted for the ten year period prior to the date of the application; the ten year period being 16 July 2014 to 16 July 2024.
4. The Appellant has stated that supporting documentation, in the form of customer testimonials, business records and photographs, affirms the established nature of the use. None of this documentation is in evidence and the only other documentation submitted are plans and other drawings of the property. The Appellant has not submitted sufficient precise and unambiguous evidence to demonstrate, on the balance of probability, that the use as a takeaway subsisted for the relevant ten year period.
5. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for shop used as takeaway for consumption off the premises at 391 High Road, Ilford 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