



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 17 December 2025

Appeal Ref: APP/Q5300/X/24/3355066

1A Lichfield Road, London N9 9HD

- 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 Andreas Francesco against the decision of the Council of the London Borough of Enfield.
 - The application ref 23/03273/CEU, dated 16 October 2023, was refused by notice dated 21 December 2023.
 - 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 the building as 4 self-contained flats.
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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.
3. An application for an award of costs has been made by the Appellant against the Council. This application is the subject of a separate Decision.

Reasons

4. 1A Lichfield Road is a single storey building that is sub-divided into four self-contained flats. The Appellant is seeking to establish the lawfulness of the use as four self-contained flats by demonstrating that the use has subsisted for in excess of four years and is thus immune from enforcement action. The onus of proof is on the Appellant who must provide sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the four flats have been separately and continuously occupied for a four year period. If the four year period is not immediately prior to the date of the application then the use established over the four year period must continue uninterrupted up to that date.
5. The Valuation Office Agency (VOA) recorded each of the four flats as being under Council Tax band B with effect from 1 June 2009. Council tax bills, addressed to the Appellant, are in evidence for the ten years 2014/15 to 2023/24. But for the five years 2014/15 to 2018/19 the bills indicate that the flats were subject to a 0% premium for being 'Empty and Unfurnished', for the year 2019/20 the bills indicate that the flats were subject to a 100% premium for being '2 year Empty', and for the 4 years 2020/21 to 2023/24 the bills indicate that the flats were subject to a 200% premium for being '5 year Empty'. This is not explained in the Appellant's statement and there is no evidence, in the form of bank statements, that Council Tax has been paid.

6. There are no tenancy agreements in evidence, no utility bills (a photograph shows separate isolating switches but not separate meters) and no other documentary evidence to indicate that the four flats have been occupied. There are two Statutory Declarations in evidence; by the Appellant and by a Letting Agent. The Agent was responsible for letting the four flats between 2009 and 2015 and states that "...all four flats...were continuously let save for small periods..." and that "We no longer have any letting records as these are destroyed after six years". There is no corroborating evidence therefore to show that the four flats were occupied between 2009 and 2015.

7. The Appellant, from his Statutory Declaration, purchased the property in July 2014. He let the whole property to Mr Z Kovacs for four years from 25 November 2015 and then to a company of Mr Kovacs', Kofa Building Ltd, for a period of 5 years. The flats were sub-let but the Appellant has stated that "The above named tenants paid the rent reserved by the lease regularly...". He inspected the flats on an annual basis and "...noticed that all four units continued to be occupied...". The Council's Housing Department made enquiries in early 2023 and subsequently required the landlord to provide specified certificates. The Appellant notified the landlord, Kofa Building Ltd, of this requirement but it "...transpired that my tenant had gone into liquidation".

8. The Appellant's Solicitor "...commenced formalities to obtain possession of the properties and on notifying the tenant occupiers, they all vacated the property in late June 2023. The Property has been vacant since then". On 4 August 2023 the Council issued Improvement Notices for Flats 1 and 2 and Prohibition Orders for Flats 3 and 4, made under the provisions of the Housing Act 2004. On the basis of this evidence Flats 3 and 4 were unfit for human habitation from before 4 August 2023. The four flats were not occupied between late June 2023 and the date of the application; a period of about eight weeks. Furthermore, there is no documentary evidence of continuous occupation of the four flats for any four year period.

9. The Appellant has not provided sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the four flats have been separately and continuously occupied for a four year period. The flats are not immune from enforcement action.

10. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use of the building as 4 self-contained flats at 1A Lichfield 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