



Appeal Decision

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2025

Appeal Ref: APP/D1780/X/23/3322944

58 Northbrook Road, Southampton SO14 0BU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Ms Iram Mushtaq against the decision of Southampton City Council.
 - The application Ref 23/00085/PLDC, dated 23 January 2023, was refused by notice dated 7 March 2023.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use is sought is described as: The use of one room of dwellinghouse for retail sale of ladies fashions being ancillary to the authorised use of the property as a residential dwellinghouse (C3).
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Summary of Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant accepts that it is not essential for me to enter the site to check measurements or other relevant facts. On that basis, injustice does not arise from an assessment on the written evidence only.

Main Issue

3. The main issue is whether the Council's refusal to grant a certificate of lawfulness is well founded.

Reasons

4. The evidence is that the site relates to a mid-terraced two storey residential dwelling. It is located within a predominantly residential street with properties of similar character and style.
5. In matters such as this, the onus is firmly on the appellant to demonstrate their case on the balance of probabilities that the use of one room of the dwelling for the retail sale of ladies' fashion would be ancillary to the residential use. My assessment is therefore very fact specific, based upon the evidence before me.
6. The Planning Practice Guidance (the Guidance) sets out that an appellant is responsible for providing sufficient information to support an application for a Lawful Development Certificate. The Guidance says: 'In the case of applications for proposed development, an applicant needs to describe the proposal with

sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.’ Those sentiments apply equally to an Inspector at appeal stage.

7. It is proposed to use a ground-floor room at the front of this modest sized dwelling for the retail sale of ladies’ fashion, which is to say it would be a retail shop. There would be no external alterations, and the remaining internal layout of the dwelling would remain unaltered.
8. There is however only very limited evidence relating to the proposed retail use. The proposed hours are described as regular working hours, which is vague, but by appointment only. There is also little clarity to define the number of expected customers or overall vehicle movements associated with the use.
9. It is contended that the retail sales room would be available for residential use when sales are not being undertaken. There is however very little evidence to demonstrate how a retail space can then also be available, let alone used, as part of the dwelling given there is likely to be a significant conflict between the associated fixtures and fittings. This casts significant doubt in my mind as to the ancillary or incidental nature of the proposed use.
10. Furthermore, an appeal decision¹ at the site relating to use as a shop, amongst other things, found planning harms in respect of highway safety, commercial waste storage and noise to neighbours arising from the use. This evidences that the character of a retail use would be materially different to that of a dwelling alone.
11. As a matter of fact and degree the appellant has therefore failed to demonstrate that the proposal would not amount to development for the purposes of Section 55 of the Act, in that a mixed use would be created as opposed a merely ancillary or incidental use as part of the residential planning unit.
12. The appellant has therefore not discharged the necessary burden of proof to demonstrate their case on the balance of probabilities.

Conclusion

13. For the reasons given above I conclude that the Council’s decision was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

14. The appeal is dismissed.

Paul T Hocking

INSPECTOR

¹ Appeal Ref: APP/D1780/W/22/3302621