



Appeal Decision

Site visit made on 25 November 2025

by Thomas Shields DipURP, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2025

Appeal Ref: APP/E0345/X/25/3360198

97a York Road, Reading, Berkshire, RG1 8DU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (“the Act”) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Sam Rixon (The Keen Partnership) against the decision of Reading Borough Council.
 - The application ref PL/24/1414, dated 17 April 2024, was refused by notice dated 23 January 2025.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is described as one self-contained studio flat.
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal building, 97a York Road, is a single storey building located to the rear of a corner terraced property at No.2 Newport Road.
3. In order for the appeal to succeed the onus is upon the appellant to show that use of the appeal building as a single residential dwellinghouse commenced 4 years before the date of the application or earlier, hence before 17 April 2020, and the use continued for a period of at least 4 years without any significant interruption.
4. While there is no dispute that the building is currently occupied, a decision of this nature as to lawfulness of use rests on historical documentary and other evidence relating to the past use of the building. As such an internal site inspection of the building is unnecessary in these circumstances.
5. The Courts have established that the onus of proof falls to an appellant¹, with the test of the evidence being on the balance of probabilities². As such, an appellant’s evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted³.
6. The appellant’s application form indicates that the building was converted into a self-contained studio flat and then let as such since “mid – 2017”. While the appellant refers⁴ to having supporting evidence in the form of council tax records, tenancy agreements covering a seven-year period, and statutory declarations, he

¹ *Nelsovil v SSE* [1962] 13 P&CR 151

² *Thrasyvoulou v SSE & Hackney LBC (No1)* [1984] JPL 732

³ *Gabbittas v SSE & Newham LBC* [1985] JPL 630, *Ravensdale Ltd v SSCLG & Waltham Forest LBC* [2016] EWHC 2374 (Admin)

⁴ Appellant Statement of Case and appeal form

has not submitted any such documentary evidence with the appeal for me to consider.

7. The Council's delegated report refers to their assessment of some documents submitted to them as part of the LDC application. The report refers to statutory declarations and tenancy agreements the Council examined as relating to the corner house at No.2 Newport Road, with the lease referring to "a room let" with access to shared facilities in the main house. The report also found that the electricity and water services for 97a were supplied from the mains supplies to No. 2 and not separately metered. Overall, on the basis of the evidence they examined, the Council came to the view that there was insufficient evidence to show that the appeal building had been used as a single dwellinghouse for at least 4 years. Although I have not seen these documents there is nothing within the Council's delegated report which leads me to conclude that their assessment and conclusion was not well-founded.
8. Given the lack of sufficiently precise and unambiguous evidence the appellant has failed to show evidentially, on the balance of probability, that the use is immune from enforcement action.

Conclusion

9. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for use as one self-contained studio flat 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).
10. This decision does not prevent the submission of a further LDC application to the Council should any supporting evidence become available.

Thomas Shields

INSPECTOR