



Appeal Decision

Site visit made on 7 January 2026

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th January 2026

Appeal Ref: APP/U5360/X/24/3353382

11E Florfield Passage, Hackney, London E8 1EB

- 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 Finbarr Hassett against the decision of the Council of the London Borough of Hackney.
 - The application ref 2024/1583, dated 23 July 2024, was refused by notice dated 16 September 2024.
 - 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 'residential use only (C3 – Dwellinghouse)'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Additional evidence, which was not taken into account by the Council, was provided in support of the appellant's case before the Council issued its decision. I have considered all evidence provided as part of the appeal.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue an LDC was well-founded.

Reasons

4. The site is a ground floor unit currently in use as a three-bedroom dwelling. It is claimed that it was previously in use for mixed residential live and work office purposes up until 2010. Plans have been provided showing how it previously comprised two large office areas (one with a kitchen), a shower room, a bathroom, and an outside rear terrace prior to 2010. It is not disputed that the change of use to a dwelling was a material change of use which constituted development requiring planning permission, and that no planning permission existed for that development.
5. With regard to section 171B of the Act, for the appeal to succeed, the appellant needs to show that the material change of use to a dwelling took place on or before 23 July 2020 and that the site has remained in use as such continuously since, without substantial interruption. The onus is on the appellant to make out their case to the standard of the balance of probabilities. Case law¹ confirms that their evidence should not be rejected simply because it is not corroborated, and

¹ *Gabbittas v SSE & Newham LBC* [1985] JPL 630

that 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 accepted.

6. The appellant has provided a statutory declaration which states that domestic rate council tax has been applied on the dwelling over the past ten years, which has been paid, and that the Council has been unable to provide copies of its records of council tax payments prior to 29 May 2021 due to technical problems. I assign significant weight to the statutory declaration on account of the serious repercussions where false statements are made. However, it does not make any reference to the site being in use as a dwelling, or when any of the internal alterations to create bedrooms and a new kitchen/living/dining area were undertaken.
7. A signed letter from the Director of Harvey Residential explains that they have been instructed as residential letting agents for the site since June 2020, and that it has always been occupied as a residential tenancy with council tax paid since then. However, the copies of Assured Shorthold Tenancy Agreements provided only date back to 1 April 2021 and there are no details of who may have occupied the dwelling before, or why copies of earlier tenancy agreements may be absent.
8. Overall, the appellant's evidence is limited and lacks detail to show, as a matter of fact and degree, when the material change of use of the site to a dwelling first took place and how the site has been used consistently since at least 23 July 2020. There is no evidence to contradict that put forward by the appellant, but the evidence provided is not sufficiently precise and unambiguous to show, on the balance of probabilities, that the site had been in use as a dwelling for at least four years on the date of the application for an LDC.
9. The appellant has raised concerns with the manner in which the Council handled the application, but the onus was on the appellant to provide evidence necessary to support the application from the outset. Moreover, emails prior to the submission of the application indicate the Council merely suggested the declaration which should be signed, rather than the claims which should be stated, within a statutory declaration.
10. Therefore, insufficient evidence has been provided to show, on the balance of probabilities, that an LDC should be issued. It will be a matter for the appellant to consider whether there is additional evidence which is sufficiently precise and unambiguous to support a new application for an LDC.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of residential use only (C3 - Dwellinghouse) is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

L Douglas

INSPECTOR