



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 21 January 2026

Appeal Ref: APP/G5180/X/24/3357103

73-75 Elmers End Road, Penge, London SE20 7UU

- 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 Vamadeva Rajakumar against the decision of the Council of the London Borough of Bromley.
 - The application ref DC/24/01929/ELUD, dated 20 May 2024, was refused by notice dated 24 October 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 hot food takeaway.
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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. 73-75 Elmers End Road is, at ground floor level, a retail unit and a hot food takeaway. On 17 September 2012 an enforcement notice was issued alleging the change in use from retail to a mixed use of retail and a hot food takeaway. The requirement of the notice is 'cease the unauthorised use of any part of the land as a hot food takeaway'. The notice took effect on 17 November 2012 and remains in force.
4. The hot food takeaway at 73-75 Elmers End Road is the hot food takeaway that is the subject of the enforcement notice. The requirement of the notice has not been complied with. Section 191(2)(b) of the Act states that "...uses and operations are lawful at any time if they do not constitute a contravention of any of the requirements of any enforcement notice then in force". The consequence of this section is that an LDC cannot be granted for a use that contravenes the requirements of a notice in force at the date of submission of the LDC application. This is the situation in this appeal.
5. For the reasons given, and on all the evidence now available, the Council's refusal to grant an LDC for hot food takeaway at 73-75 Elmers End Road, Penge, 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