Planning Inspectorate

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/A5270/X/24/3355888
27 Long Drive, Greenford UB6 8NA

- 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 Mrs Jeanette Fitch against the decision of the Council of the London Borough of Ealing.
- The application ref 241261CPE, dated 28 March 2024, was refused by notice dated 12 July 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 four residential flats.

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. The description of the existing use for which an LDC is sought was amended at application stage to be 'three residential flats', though the Council's refusal notice refers to 'four residential flats'. The number of flats is addressed below.

Reasons

4. 27 Long Drive is a two-storey plus attic mid-terraced former dwelling. It has been converted to three flats; one at each floor level. To be immune from enforcement action and thus lawful the use of the property as three flats must have subsisted continuously for the four year period prior to the date of the application. 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 use has subsisted continuously for that four year period, commencing on 28 March 2020.

5. Mr and Mrs Grigore signed a twelve month Tenancy Agreement for the ground floor flat on 23 December 2018. This Agreement was renewable every six months. The Grigores signed a similar Agreement on 23 December 2020. Ms Roxana signed an Agreement for the ground floor flat on 17 August 2021, though it is not known on what terms. It is claimed that Ms Omisore entered into Tenancy Agreements on 1 March 2022 and 8 August 2023 but neither of these documents are in evidence. The only document in evidence relating to Ms Omisore's occupation of the ground floor flat is a Council Tax assessment addressed to her dated 17 March 2023 for the year 2023-24. Council Tax assessments for the years 2021-22 and 2022-23 are in evidence but these are addressed to the owner, and there are many other Council Tax assessments but these are simply updates and are not relevant.

6. The first floor flat was let to Mr Mahesan, a letting agent, between 1 October 2019 and Spring 2022, who sub-let the accommodation. The Agency Agreement dated 1 October 2019 refers to 1st Floor Flat but the Agreements dated 1 October 2020 and 1 October 2021 refer to 1st Floor (Rear) Flat and 1st Floor (Front) Flat. Furthermore, there are two Council Tax assessments dated 12 August 2019, addressed to the owner, for 1st Floor Rear Left Flat and 1st Floor Front Left Flat, so the first floor was sub-divided before Mr Mahesan signed the Agreement on 1 October 2019. Mr Mahesan has provided a Witness Statement in which he states he was engaged by the owners of the appeal property to act as letting agent from 1 October 2018 to 31 January 2022 for 'First floor, front flat, 'First floor rear flat' and 'Second floor, loft flat'.

7. In the Appellant's appeal statement it is claimed that Mr Sturz and Ms Badea entered into Tenancy Agreements, dated 9 February 2022 and 10 February 2023, for the lease of the first floor flat, and that Mr Bentsi-Amissah entered into Tenancy Agreements, dated 1 March 2022 and 8 August 2023, also for the lease of the first floor flat. The Tenancy Agreements for Mr Sturz and Ms Badea are not in evidence but those for Mr Benti-Amissah are in evidence, and these relate to 1st Floor Rear Left Flat. Council Tax assessments during 2022 and 2023, addressed to either the owners or to Mr Benti-Amissah, relate to both 1st Floor Rear Left Flat and 1st Floor Front Left Flat. It is clear that even after Mr Mahesan ceased as letting agent of the claimed first floor flat it was being let by the owners as two separate flats.

8. As referred to above Mr Mahesan was letting agent from 1 October 2018 to 31 January 2022 for the second floor flat. So there are no Tenancy Agreements in evidence for this flat for that period. It is claimed in the appeal statement that Mr Sayed entered into Tenancy Agreements for the second floor flat on 1 March 2022 and 8 August 2023 but these are not in evidence. A Council Tax re-assessment dated 23 December 2022 is addressed to Mr Sayed and a Council Tax assessment for 2023-24 with discounts applied, dated 11 April 2023, is also addressed to Mr Sayed. Council Tax assessments dated 12 August 2019, 30 October 2020, 8 March 2021 and 31 January 2022 for the second floor flat are all addressed to the owner of the property.

9. Council Tax assessments addressed to the owner of the property are not evidence of occupation. There is no evidence of occupancy of the ground floor flat after Ms Roxana terminated her tenancy, other than one Council Tax assessment addressed to Ms Omisore. There is no evidence of occupancy of the second floor flat other than two Council Tax assessments addressed to Mr Sayed. The first floor accommodation is two bedrooms, one with en-suite facilities, another bedroom, a shower room and a kitchen. It is claimed that the accommodation was occupied as one flat but evidence clearly indicates that it was let separately to two lessees, though it is likely that they shared, at least, the kitchen. Evidence of occupation of the first floor is confused.

10. The evidence submitted is imprecise and ambiguous, even on the number of flats in the property, and does not justify a conclusion that the property has been occupied continuously as three or four flats for the four year period prior to the date of the application. For the reasons given, and on all the evidence now available, the Council's refusal to grant an LDC for use as three residential flats at 27 Long Drive, Greenford 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