



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 22 January 2026

Appeal Ref: APP/Q5300/X/24/3356156

49 Albany Park Avenue, Enfield EN3 5NU

- 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 Zahoor Ahmed against the decision of the Council of the London Borough of Enfield.
- The application ref 24/02211/CEU, dated 2 July 2024, was refused by notice dated 4 September 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 use of property as 2 self-contained flats.

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the existing use which is found to be lawful.

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. 49 Albany Park Avenue is a two-storey end-terraced former dwelling. It has been converted to two flats; one at each floor level. To be immune from enforcement action and thus lawful the use of the property as two flats must have subsisted continuously for the four year period prior to the date of the application. The burden 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 the four year period commencing on 2 July 2020.
4. The first floor flat is no.49a. Ms Andrea Griffith entered into an Assured Shorthold Tenancy (AST) for the lease of the flat, for a one year period, on 1 October 2014. In a sworn and signed Statutory Declaration, dated 30 June 2024, Ms Griffith states that she lived in the flat from that date to the present day. The Declaration was signed only 2 days before the date of the application so there is no reason to doubt that the first floor flat was continuously occupied for the four year period prior to the date of the application. The sworn evidence of Ms Griffith is corroborated by a sworn and signed Statutory Declaration dated 1 July 2024 by the joint owner of the appeal property, Ms R Nazir, and by other documentary evidence.
5. The Declaration by Ms Nazir states that “The property has been in continuous use as two separate dwellings over four years...” and that “...the two dwellings have been occupied independently by unrelated persons”. An AST for the ground floor flat, dated

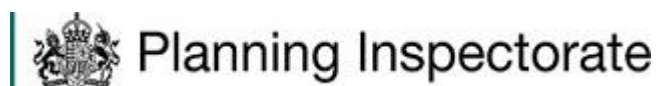
1 October 2014, is in evidence but there are no further ASTs or Declarations about occupancy of the flat. However, there is documentary evidence, such as gas certificates and insurance policies, which clearly indicates that two flats were maintained during the relevant four year period. Ms Griffith certainly occupied the first floor flat during this period and, on the evidence of the Appellant and Ms Nazir, it is also certain, on the balance of probability, that the ground floor flat was also occupied continuously during the same four year period.

6. The Appellant has submitted sufficient precise and unambiguous evidence to demonstrate that use of property as 2 self-contained flats has subsisted continuously during the four year period prior to the date of the application.

7. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use of property as 2 self-contained flats at 49 Albany Park Avenue, Enfield was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 2 July 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use subsisted uninterrupted for the four year period prior to the date of the application and is thus lawful

Signed

John Braithwaite

Inspector

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First Schedule

Use of property as 2 self-contained flats

Second Schedule

Land at 49 Albany Park Avenue, Enfield EN3 5NU

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 22 January 2026

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Land at 49 Albany Park Avenue, Enfield EN3 5NU

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Scale: Not to Scale

