



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 23 January 2026

Appeal Ref: APP/M5450/X/24/3356420

115 Dalston Gardens, Stanmore, Harrow HA7 1DA

- 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 Sailesh Patel against the decision of the Council of the London Borough of Harrow.
 - The application ref PL/2596/24 , dated 20 October 2024, was refused by notice dated 18 November 2024.
 - The application was made under section 191(1) of the Act.
 - The use/development which an LDC is sought is erection of outbuilding to rear garden with use as self-contained residential unit.
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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.
3. The description of the use/development for which an LDC is sought is taken from the Council's decision notice. It is an accurate description. The application form does not provide the opportunity for the Appellant to indicate whether they are making the application under section 191(1)(a) of the Act, which relates to existing use of buildings or land, or section 191(1)(b) of the Act, which relates to existing building operations. The application was, in fact, a hybrid application because it sought an LDC for existing building operations, erection of outbuilding to rear garden, and for existing use of the outbuilding as a self-contained residential unit.
4. The Council's reason for refusal of the application states that they are "...not satisfied that consistent evidence has been provided to demonstrate that...the outbuilding...has been in use as a self-contained dwelling for a continuous period of at least four years...". The reason for refusal relates to the use of the outbuilding and does not refer to its erection. The Council has not submitted an appeal statement and therefore rely on a Certificate Report by a Planning Officer. The Report does not consider the lawfulness of the outbuilding, only the lawfulness of its use. The lawfulness of the outbuilding, as a building, is not in dispute.

Reasons

5. 115 Dalston Gardens is a two-storey end-terraced dwelling. The outbuilding has been erected in the rear garden of the dwelling. For the self-contained residential use of the building to be lawful its residential use must have subsisted continuously for a four year period. This period is usually that immediately before the date of the

application but if it is some period before then, to be lawful, the established use must have subsisted uninterrupted up to the same date. 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 residential use has subsisted continuously for a four year period and up to the date of the application.

6. Tenancy Agreements (TA) have been submitted in evidence between the Appellant as Landlord and Mr A Burchett as Tenant. The tenancies are for the periods 26 April 2022 to 26 April 2023, 26 April 2023 to 26 April 2024 and 26 April 2024 to 26 April 2025 for the lease of 115 Dalston Gardens. A Council letter concerning a Penalty Charge Notice is addressed to Mr Burchett at 115 Dalston Gardens whilst letters from Allpay, HMRC and Scottish Widows are addressed to Mr Burchett at 115B Dalston Gardens. A TA is submitted in evidence for the period 9 May 2021 to 9 May 2022 between the Appellant and N and B Chira for the lease of 115 Dalston Gardens. An HMRC letter and a bank statement are addressed to Mr Chira at 115 Dalston Gardens.

7. TAs are submitted in evidence for the period 1 August 2020 to 1 August 2021 for Mr A Alamalakala for the lease of 115 Dalston Gardens A, for the period 27 May 2019 to 27 May 2020 for Ms A Dinli for the lease of 115 Dalston Gardens, for the period 20 May 2017 to 20 May 2019 for Mr Dima for the lease of 115 Dalston Gardens, for the period 15 March 2015 to 15 March 2016 for Ms A Hammond for the lease of 115 Dalston Gardens, for the periods 27 February 2013 to 7 September 2013 and 9 September 2013 to 9 September 2014 for Mr A Biyani and Miss N Jajoo for the lease of 115A Dalston Gardens, and for the period of 27 November 2011 and 27 May 2012 for Mr Biyani for the lease of 115 Dalston Gardens.

8. Eleven TAs are referred to above; eight are for the lease of 115 Dalston Gardens and three are for the lease of 115A Dalston Gardens. Six letters and other documents are referred to above; three are addressed to 115 Dalston Gardens and three are addressed to 115B Dalston Gardens. The evidence submitted in support of the appeal is confusing, principally because eleven of the seventeen documents relate to, or are addressed to, 115 Dalston Gardens, which is the address of the two-storey dwelling at the property. The evidence is further confused because, of the other six documents, three are addressed to 115B Dalston Gardens. If the outbuilding is 115A Dalston Gardens then TA evidence indicates that it was occupied only between February 2013 and September 2014 and between August 2020 and August 2021. The evidence submitted in support of the appeal is wholly inconclusive about use of the outbuilding.

9. There is insufficient precise and unambiguous evidence to justify a conclusion that the residential use of the outbuilding has subsisted continuously for a four year period. However, the Council does not contest the claim that the outbuilding was completed more than four years before the date of the application and is therefore lawful.

10. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use as self-contained residential unit at 115 Dalston Gardens, Stanmore, Harrow was well-founded and the appeal fails in this regard. For the reasons given above the Council's refusal to grant an LDC for erection of outbuilding at 115 Dalston Gardens, Stanmore, Harrow was not well-founded and the appeal succeeds in this regard. 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 20 October 2024 the operations 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, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The outbuilding was erected and was substantially complete more than four years before the date of the application.

Signed

John Braithwaite

Inspector

Date: 23 January 2026

Reference: APP/M5450/X/24/3356420

First Schedule

Erection of outbuilding to rear garden

Second Schedule

Land at 115 Dalston Gardens, Stanmore, Harrow HA7 1DA

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

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation 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: 23 January 2026

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Scale: Not to Scale

