



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 26 January 2026

Appeal Ref: APP/W5780/X/24/3355507

66 Elmstead Road, Ilford IG3 8AY

- 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 Mr A Chaudhry against the decision of the Council of the London Borough of Redbridge.
 - The application ref 1921/24, dated 5 July 2024, was refused by notice dated 2 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 as two self-contained flats.
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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. An application for costs has been made by the Appellant against the Council. This application is the subject of a separate Decision.
4. The description of the use for which an LDC is sought is taken from the Council's reason for refusal of the application. It is an accurate description.

Reasons

5. 66 Elmstead Road is a mid-terraced two-storey former dwelling that is sub-divided into 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 5 July 2020. The Appellant claims that the property has been two flats since 2011 but his evidence relates to the aforementioned four year period.
6. Only one Assured Shorthold Tenancy (AST) agreement relating to the appeal property is in evidence; for the ground floor flat. The AST agreement is between the Appellant as Landlord and Ms M Sheikh as Tenant and is for a tenancy commencing on 23 April 2024, only about ten weeks before the date of the application. There is a Guaranteed Lease Rent Agreement (GLRA) in evidence for the first floor flat. This is dated 30 July 2020 and is for an unknown period. There is another GLRA in evidence for the ground floor flat. This is dated 1 July 2022 and is for a two year period. The two flats have been registered separately for Council Tax purposes since 2011.

7. There is a letter in evidence dated 30 June 2022 from a managing agent which states that they have managed the ground floor flat on a GLRA basis from 1 July 2019 to 30 June 2022. Accompanying this letter is a statement dated 1 July 2022 relating to a payment made by the managing agent to the Appellant on the same date. The GLRAs do not provide any information about tenants who may have occupied the flats or about the dates of any tenancy periods; just that a guaranteed rent was paid to the Appellant. The GLRAs and other evidence, such as gas and electricity certificates, do not indicate occupancy and therefore use of the flats, just that they were managed and safe. Council Tax bills may have been sent but there is no evidence that Council Tax has been paid. The only named resident in the four year period prior to the date of the application occupied the ground floor flat for only a short period. There are no Statutory Declarations by the Appellant, managing agents or former tenants in evidence.

8. The Appellant has not provided sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the use of the property as two self-contained flats subsisted continuously for the four year period prior to the date of the application.

9. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for use as two self-contained flats at 66 Elmstead Road, Ilford 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