



Appeal Decision

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2026

Appeal Ref: APP/W5780/X/23/3327696

96 Chester Road, Seven Kings, Ilford, Redbridge IG3 8PX

- 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 Narinder Veghal against the decision of the Council of the London Borough of Redbridge.
 - The application ref 1632/23, dated 7 June 2023, was refused by notice dated 21 July 2023.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is described as 'retention of 2 flat at 96 Chester Road IG3 8PX.'
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Preliminary Matters

2. In reviewing the file, it appeared that the appeal could be determined without a site visit – without causing prejudice to any party. This is because the relevant date for determining whether the existing development is lawful, is the date of the application, and the parties have submitted sufficient evidence to understand the nature of the site given the dispute.
3. The Council commented that the appellant has put forward additional evidence beyond that submitted as part of the application. However, in section 195 appeals, the parties and interested persons may submit additional evidence which was not before the authority at the time of its decision.
4. Any relevant new evidence advanced at the appeal should be considered since the purpose of the LDC provisions are to enable the making of an objective decision based on the best facts and evidence available when the decision is taken.
5. For the purposes of the certificate, I have used the description given by the appellant on their appeal form, in the interests of clarity.

Main Issue

6. The main issue is whether the Council's refusal to issue an LDC was well-founded.

Reasons

Background and Statutory Framework

7. Section 191(2) of the 1990 Act states that uses are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and, they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
8. Where there has been a breach of planning control consisting of a material change of use of a building to a dwellinghouse, where the use took place before 25 April 2024, by virtue of section 171B(2) of the 1990 Act, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
9. For the appeal to succeed, the appellant would need to demonstrate that the property has been used as two flats (dwellings) on a substantially uninterrupted basis for not less than four years prior to the date of the application.
10. Planning Practice Guidance states that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability – namely what is more likely than not.
11. Where an LDC is sought, the onus of proof is on the appellant, and the standard is the balance of probabilities.

The appellant's evidence

12. The appellant in their Statutory Declaration dated 8 August 2023, stated that the property has been used and tenanted continuously as two flats since January 2017 and the use is still ongoing. I also note that in their response to a Planning Contravention Notice (PCN) dated 26 May 2023, they stated that the property has been used as two flats since 2017, as did the ZFA Group, the managing agents, in their response to the PCN.
13. There are signed and completed tenancy agreements for 96A which relate to the period from 6 January 2017 to 14 September 2022. Additionally, there is a letter to the managing agent from Lewisham Council – a notification of a decision to accommodate a person and their family – who the appellant stated was resident when the appeal was made, in which the address is given as 96A and the property referred to as a two-bedroom flat. Although the date of this letter is incomplete, the appellant also submitted email correspondence between the person who sent the letter and the managing agents which is dated 21 September 2022, querying whether the tenant had picked the keys up.
14. In respect of 96B there are signed and completed tenancy agreements which relate to the period from 11 January 2017 to 14 September 2022. In addition, there is a letter to the managing agents from Lewisham Council – a notification of a decision to accommodate a person and their family – in which the address is given as 96B and the property referred to as a two-bedroom flat, albeit the date on the letter is incomplete. There is also a further payment invoice in respect of a temporary accommodation agreement dated 29 December 2022 from Southwark

Council (Aylesbury Housing Area Office), relating to 96B and referring to it as a two-bedroom flat.

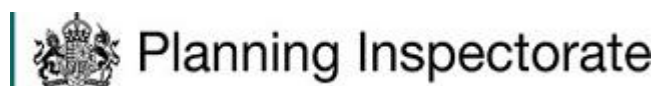
15. Bank statements have been provided which cover the majority of months from 2 January 2019 to 9 May 2023. They show a single payment from ZFA Group, with the reference given as 96 Chester Road. As the Council noted, the payments are a single payment and do not correspond with the rent amounts in the tenancy agreements and only refer to 96 Chester Road.
16. In seeking to explain this, the appellant stated that they have an agreement with ZFA Group and are paid a fixed amount assuming both flats are tenanted, but the terms of the tenancy agreement are consistent with the business interests of ZFA Group i.e. their agency fees including commission, maintenance etc. Whilst the explanation lacks detail, it is plausible since the managing agents are likely to take fees for their services.
17. There is a signed statement from neighbours at 119, 92 and 98 Chester Road dated 29 July 2023 which supports the appellant's case. In broad terms they stated that they have seen the property in use as two flats over the last four years, noting different families and individuals, different usage patterns, waste disposal, and postal arrangements.
18. There is also an email from a builder dated 22 June 2015, which refers to installing a new kitchen at first floor level amongst other works including adding or removing partitions. Whilst the appellant may have stated that the work was completed in 2014, there is nothing to suggest that this was anything more than an error.
19. The proposed floor plans show the layout of the property as two, two-bedroom flats. However, the Google images provide little assistance since they only show the outside of the property, nor does the building control certificate which relates only to a single storey rear extension, minor internal alterations and associated electrical works at 96 Chester Road.
20. However, overall, based on the appellant's submissions, it seems more likely than not that the property has been occupied as two flats since January 2017 and that use continued until the date of the application.
21. The appellant's declaration was sworn before a solicitor, and the appellant has therefore properly attested to the truthfulness of their evidence. Their account together with the tenancy agreements, bank statements and supporting statement from neighbours is sufficiently precise and unambiguous and should therefore be afforded significant weight, unless there is evidence that might indicate otherwise.
22. In this respect the Council stated that Council Tax records indicate that the property is in use as a single dwellinghouse. However, this is not determinative as to the actual use of the property and is a matter of little weight.
23. The Council also stated that the appellant's submission lacks any corroborating evidence. However, the appellant's evidence need not be corroborated provided their evidence alone is sufficiently precise and unambiguous.
24. As a matter of fact and degree, the evidence presented indicates on the balance of probabilities, that the property has been used as two flats for a continuous period of more than four years before the application date. There is little evidence which contradicts or makes the appellant's version of events less than probable.

Conclusion

25. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for the use as two self-contained flats is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Felicity Thompson

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 7 June 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined red 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 available evidence demonstrates that, on the balance of probabilities, the use of the property as two flats began more than four years before the date of the application and has been continuous thereafter.

Signed

Felicity Thompson

Inspector

Date: 02 February 2026

Reference: APP/W5780/X/23/3327696

First Schedule

Existing use as 2no. self-contained flats.

Second Schedule

Land at 96 Chester Road, Seven Kings, Ilford, Redbridge IG3 8PX

IMPORTANT NOTES – SEE OVER

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /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 use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /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 this decision dated: 02 February 2026

by Felicity Thompson

Land at: 96 Chester Road, Seven Kings, Ilford, Redbridge IG3 8PX

Reference: APP/W5780/X/23/3327696

Scale: Not to Scale



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CLIENT: 96 CHESTER ROAD ILFORD IG3 8PX, UK
PROJECT: HOME EXTENSION
TITLE: BLOCK PLAN

DRAWN: SANDEEP MANN
DATE: 01/06/2023
SCALE: 1:500 @ A3

DRAWING NUMBER: 11

PLANMASTERS
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