
Appeal Decision

Site visit made on 20 January 2026

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **9 February 2026**

Appeal Ref: APP/C5690/X/25/3371389

Ground Floor, Unit D, Damsel House, Dragonfly Place, Lewisham, London SE4 2FN

- 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 Sheniz Harvey against the decision of the Council of the London Borough of Lewisham.
- The application ref DC/25/140258, dated 23 May 2025, was refused by notice dated 24 July 2025.
- 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 a C3 use as a dwelling house by passage of time.

Summary Decision: The appeal is allowed, and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.

Applications for costs

1. An application for costs was made by Mrs Sheniz Harvey against the London Borough of Lewisham. This application is the subject of a separate decision.

Background and Preliminary Matters

2. For this decision, the appeal is now proceeding in the name of Mrs Sheniz Harvey. This is reflected in the banner heading above, following an update to the appellant's details since the appeal was lodged.
3. To be granted an LDC under Section 191 of the Town and Country Planning Act 1990 (1990 Act), the appellant must demonstrate, on the balance of probabilities, that the proposed development was lawful on the date of the application. Factors such as planning policies and the impact of the proposal on the character and appearance of the area are not relevant. My determination is based solely on factual matters, planning law, and the application of judicial authority.
4. For Unit D of the Ground Floor of Damsel House to be considered lawful, the use as a dwelling house must have been continuous for a period of four years before the date of the LDC application. However, any four-year period before the relevant date is applicable, provided the use was established and has not been abandoned or lost due to a supervening event before the application date. The relevant date of the application for determining the lawfulness of the use is 23 May 2025, meaning the use would have needed to commence no later than 23 May 2021.
5. Section 171B(1)(a) of the 1990 Act has recently changed the time limits for taking action on unauthorised development in England to 10 years. However, this ten-year limit only applies to breaches of planning control involving a material change of use of any building to a single dwelling house when that change occurred on or after 25 April

2024. Since the claim is that the breach took place before this date, the time limit for enforcement action in this case is four years, not the recently changed time of ten.

6. In an application for an LDC, the applicant bears the responsibility to demonstrate, on the balance of probabilities, that the proposed development is lawful. Planning Practice Guidance (PPG) indicates that if there is no evidence from the Council or any other party to contradict the applicant's account, there is no justified reason to refuse the application. Although the applicant's evidence does not need to be corroborated by independent evidence, it must be sufficiently precise and unambiguous to justify granting an LDC.
7. Section 191(2)(a) and (b), states uses and operations are lawful at any time if: (i) no enforcement action may be taken against them (either because they do not involve development or require planning permission, because the time for enforcement action has expired, or for any other reason), and (ii) they do not violate any enforcement notice currently in effect. There is no evidence of an enforcement notice being in force, and there is no disagreement over whether the use constitutes development as defined in Section 55 of the 1990 Act, or that it requires planning permission. The dispute is whether the evidence provided by the appellant demonstrates, on a balance of probabilities, that no enforcement action can be taken due to the time limit for taking action having expired, or for any other reason.
8. According to Section 195 of the 1990 Act, I should grant an LDC under Section 191 of the 1990 Act if I find that the Council's decision was not well-founded. This relates to the decision itself rather than the reasons behind it, allowing consideration of all of the evidence presented to me to determine my decision. Therefore, even if the Council's decision was well-founded at the time it was made, it may not remain so in light of any new evidence submitted in support of the appeal.
9. Additional evidence has been provided by the appellant, and the Council has made observations about whether this new evidence addresses their reasons for denying the LDC. My decision will, therefore, consider the additional evidence submitted in support of the appeal, along with the Council's observations on this evidence, when determining the appeal. No injustice would result from my consideration of this additional evidence in making my decision.

Main Issue

10. The main issue is whether the Council's refusal to issue an LDC for the Ground Floor, Unit D of Damsel House, being used as a dwelling house, was well-founded.

Reasons

Evidence

11. At the application stage, the appellant submitted an Application Form, three Statutory Declarations (SDs), as well as three site location plans- 1:1250, 1:200 and 1:500 (labelled Lease Plan). There are also two floor plans, a layout of the space showing the unit size with no internal details, and a detailed layout drawing plan referenced 210 GA 01 dated January 2015. In addition to evidence submitted at the application stage, a Statement of Case (SoC) is included with the appeal submissions; a further two SDs and a Clarification Statement (CS) regarding the purchase, subdivision and address of the site.

12. The signature on the CS provided with the appeal is formally authorised and dated. All SDs before me are signed by the author and co-signed by a solicitor in accordance with the Statutory Declarations Act 1835. The SDs are referenced below, SD1 to SD5, to distinguish between the details submitted in each: -
- SD1: By the appellant, Sheniz Harvey, dated 19 April 2025.
 - SD2: By Kellie More, friend of appellants, dated 24 April 2025.
 - SD3: By Dami Daramola, friend of appellants, dated 29 April 2025.
 - SD4: By Clarke Grierson, occupant of neighbouring Unit (Unit E), dated 13 August 2025.
 - SD5: By Jill Davies, occupant of neighbouring Unit (Unit C), dated 7 August 2025
13. The site location plans include the property that is the subject of the appeal, along with the detailed layout drawing referenced as 210 GA 01. This plan illustrates an open layout with partial subdivisions and is annotated to indicate areas designated for living, sleeping, dining, kitchen and office, as well as a separate WC and shower room.
14. According to SD1, the appellants have been residing in Ground Floor, Unit D, Damsel House, since November 2019, following the sale of their previous home that same year. They assert that Unit D has continuously served as their residence for four years and remains their home. This claim is supported by visits from friends and family to the property for occasions such as Christmas, showcasing regular, personal, and familial use of the dwelling.
15. SD2 states that the appellants have been using the premises since 2019 as their place of residence. The author of SD2 is aware of this due to regular contact with the appellants every other week since 2019, with invitations to social events further affirming the use of the unit as a home. SD3 confirms that the unit serves as the appellants' residence and notes that they have visited the property at least once a year since 2019, indicating a consistent presence at the dwelling, as their daughters are friends and attend the same school.
16. SD4, by the occupant of the neighbouring unit (Unit E), states that the appellants have been using Unit D since 2015 as their place of residence, and continually for more than 4 years. The author confirms that he has occupied his neighbouring unit since 2015, used the same contractor to fit out the unit and has been in regular contact with the appellants as neighbours since his occupation. SD5, submitted by the occupants of another neighbouring unit, confirms that the enforcement history set out in the Council Officer's Report relates to the D1 and D2 units on the first floor and not the ground floor units owned by the appellant.
17. The CS clarifies some matters regarding the address of the appeal site, which has changed and been subdivided since its construction in 2008. Originally, the ground and first floors of Unit D were connected by doors and staircases and were designed as a single unit. However, the appellants purchased the ground floor of Unit D in 2015. The sale did not include the external staircase, and the interconnecting door was sealed off from the first floor. In 2017, the first-floor units were sold to the current

occupants, who subsequently clarified the unit designations by naming them D1 and D2 for the First Floor.

Self-Contained Dwelling and Continuous Use

18. Based on the plans provided and my site inspection, I observed that Unit D on the ground floor contains a living area, sleeping space, kitchen, as well as a separate toilet, shower room, and outdoor area. I am satisfied that the unit has all the necessary facilities for daily private domestic living, possessing the characteristics of a dwelling house. The detailed layout plan from the appellants is dated January 2015, indicating that the unit had these facilities at that time. This is corroborated by the neighbouring occupant in SD4, who states that the unit was occupied by the appellants in 2015 and used the same contractor to fit out the properties.
19. The evidence presented with the application and appeal is sufficiently precise and unambiguous to demonstrate, on a balance of probabilities, that the appellants had the necessary facilities for daily domestic living by 2015. There is no evidence from the Council to contradict this assertion.
20. SD1 to SD3, submitted with the application, set out that the use has been ongoing since 2019 and has not changed since that time. The SDs do not state the exact date, but all indicate that by November 2019, the unit was their main residence. SD4 sets out that the use has been ongoing since 2015, which is earlier, and does not corroborate the appellant's timeline. However, even if the appellant occupied and converted the premises in 2015, but the use did not commence until November 2019, this is still an extended period of more than 4 years from the date of the application.
21. The Council Officer Report does cite an enforcement investigation into the change of use of Unit D to a residential unit. However, it confirms the investigation was closed by 12 April 2019, because the units did not contain residential facilities and were vacant. However, the Officer Report does not claim that this contradicts the appellant's claims, identifying that the enforcement investigation was closed before the appellant claimed the use commenced in November 2019. Nonetheless, the CS and SD5 also clarify that the enforcement case indicated in the planning history pertains to the neighbouring units at D1 and D2 on the first floor and not Unit D on the ground floor.
22. The SDs provided are sufficiently precise and unambiguous when indicating that the appellants have lived in Unit D of the ground floor of Damsel House for the requisite period of time. I attach significant weight to the SDs, especially since they have been properly declared and witnessed, with serious consequences if any of them were subsequently shown to be false. There is no evidence from the Council to contradict the appellants' claim that the use began in November 2019 and has yet to cease. The Council has also not produced any evidence to show that enforcement action could not have been pursued if it had investigated the breach during the requisite period of time.
23. There is no further supporting evidence, such as the details of the sale of their previous residence, dated photographs, bills or council tax, which would corroborate the appellant's claims over this period. I appreciate that the submission of corroboratory evidence, such as this, would make the appellant's claims more robust. However, in my judgement, the absence of this evidence does not contradict the appellant's version of events or make them less than probable. The plans, SDs and CS alone are sufficiently precise and unambiguous to demonstrate, on a balance of probabilities, that the appellants have occupied Unit D at Ground Floor for a period of

four years as a dwelling house. The appellants, their friends and the neighbouring occupants have provided a sufficiently precise and unambiguous account of the use.

24. Accordingly, on the balance of probabilities, the evidence produced is sufficiently precise and unambiguous in setting out the use of the appeal site as a dwelling house over a continuous four-year period before the date of the application. There is also no evidence of abandonment or a supervening event between November 2023 and the submission of the application on 23 May 2025

Other Matters

25. I have had regard to the third-party representations submitted in respect of the appeal; however, the planning merits of any use or operations undertaken are not relevant in an LDC. Consequently, issues such as the character of the street scene, setting a precedent for the use, increasing parking demand, removing employment space, reducing the footfall to the commercial area and noise issues are not determining factors in deciding whether the residential use of the unit is lawful.

Conclusion

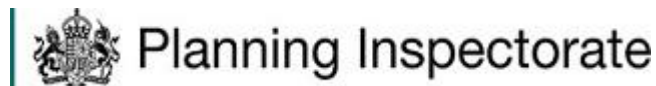
26. For the reasons given above, I conclude, on the evidence now available, that the Council's decision to refuse a certificate of lawful use for the use of Ground Floor, Unit D, Damsel House as a dwelling house is not well-founded and that the appeal should succeed. I will exercise the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Formal Decision

27. The appeal is allowed, and attached to this decision is a certificate of lawful use describing the use of Ground Floor, Unit D of Damsel House as a dwelling house, which is found to be lawful.

M. P. Howell

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 23 May 2025 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in 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 use of Ground Floor, Unit D of Damsel House as a dwellinghouse commenced more than four years prior to the date of the application for the Lawful Development Certificate and continued thereafter without material interruption.

Signed

M. P. Howell

Inspector

Date: **9 February 2026**

Reference: APP/C5690/X/25/3371389

First Schedule

C3 use as a dwelling house

Second Schedule

Ground Floor, Unit D, Damsel House, Dragonfly Place, Lewisham, London, SE4 2FN

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 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: **9 February 2026**

by **M. P. Howell**

Land at: Ground Floor, Unit D, Damsel House, Dragonfly Place, Lewisham, London, SE4 2FN

Reference: APP/C5690/X/25/3371389

Scale: Not to Scale

Site Location Plan - Unit D, Damsel House



Plan Produced for: **Michael Harvey**

Date Produced:

Plan Reference Number:

Scale: 1:1250 @ A4

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