
Appeal Decisions

Site visit made on 16 December 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 26th February 2026

Appeal A Ref: APP/R5510/X/24/3336736

51 Ickenham Road, Ruislip, Hillingdon HA4 7BZ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr R Ahmed against the decision of the Council of the London Borough of Hillingdon.
 - The application ref: 24650/APP/2022/2047, dated 27 June 2022, was refused by a notice dated 10 October 2023.
 - The application was made under section 191(1)(a) of the 1990 Act.
 - The use for which a certificate of lawful use or development is sought is use of part of the ground floor of no. 51 Ickenham Road as a self-contained studio flat.
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Appeal B Ref: APP/R5510/W/24/3336533

51 Ickenham Road, Ruislip, Hillingdon HA4 7BZ

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
 - The appeal is made by Mr Rizwan Ahmed against the decision of the Council of the London Borough of Hillingdon.
 - The application ref is 24650/APP/2023/2502.
 - The development proposed is first floor side/rear extension.
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Decisions

Appeal A

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.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The appeal property is a relatively large, detached house in a largely residential area. There are 2 appeals before me made by the same appellant. Yet one relates to a proposed extension and the other to a LDC application relating to the use of part of the ground floor. As such, I have dealt with them separately below.

Appeal A

4. The description of the use for which the LDC is sought, in the banner heading above, is taken from the application form. The application form describes the existing use as use of part of the ground floor of no. 51 Ickenham Road as a self-contained studio flat. The location plan and block plan submitted as part of the LDC application identify in red outline the whole of the property, 51 Ickenham Road. However, a more detailed layout plan of the ground floor was also

submitted and I observed at the site visit the part of the ground floor that is targeted by this appeal. I have dealt with the appeal on this basis.

5. My decision rests on the facts of the case, on relevant planning law and judicial authority. The test of evidence is made on the balance of probability. The appellant's evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous.

Appeal B

6. The description of the proposed development, in the banner heading above, is taken from the application form.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires that, in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
8. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. However, the sections relevant to the appeal have not materially altered. As such, I do not consider that it is necessary to seek the further views of the parties. I am required to consider the appeal on the basis of the current Framework.

Appeal A

Main Issue

9. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

10. In order for an LDC to be granted under section 191 of the 1990 Act, the burden of proof is with the appellant, and the appropriate test of the evidence is the balance of probabilities. The onus is firmly on the appellant to show that the use of part of the ground floor of no. 51 Ickenham Road as a self-contained studio flat was lawful at the time the application was made.
11. Section 191(2) of the 1990 Act states that '*For the purposes of this Act uses and operations are lawful at any time if— (a) 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 (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*' In this case there is no evidence before me to indicate that there were any requirements of an enforcement notice in force at the date of the LDC application.
12. Section 55(3)(a) of the 1990 Act, states that the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used. There is no dispute that at the date the LDC application was submitted the time

limit at section 171B(2) of the 1990 Act stated that *“Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach”*.

13. The appellant’s case is that part of the ground floor of 51 Ickenham Road has been used as a separate studio flat for more than four years and hence is immune from enforcement action and therefore lawful by virtue of section 171B(2) of the 1990 Act. The date of the LDC application is 27 June 2022. Therefore, the appellant needs to show, on the balance of probability, that the change of use of part of the ground floor of 51 Ickenham Road to a self-contained studio flat began on or before 27 June 2018 and continued for at least 4 years thereafter without significant interruption.
14. The Council’s Officer Report states that *“having regard to the evidence submitted by the applicant and the evidence available to the Council, it is considered that the evidence submitted by the applicant is not sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability”*.
15. The appellant has submitted an affidavit stating that *“in relation to the self-contained flat at 51 Ickenham Road.....state that I have rented this flat for the period of 27th June 2018 to 27th June 2022”*. Also submitted in support of the LDC application there are Assured Shorthold Tenancy Agreements (ASTs), Bank Statements (BS), Council Tax (CT) Bills, ID details and tax declarations. The ASTs indicate that from 10 March 2018 a Ms N Ivanickaja (NI) rented out a “Studio unit – 51a Ickenham Road..”. Then from 3 Jan 2019 a Ms S Ferguson (SF) rented out a “Studio unit – 51a Ickenham Road..”. The BS indicate that regular rent and deposit payments were paid by NI, the first being on 23 February 2018 with the last on 3 Dec 2018. They also show that a deposit was paid by SF on 13 Dec 2018 and regular rent payments paid until 31 May 2022. I note that the highlighted itemisations shown on the BS do not directly link those cited payments to 51 or 51a Ickenham Road. But the names shown as references, the amounts paid and the dates relate to the deposit and rent payment details shown on the ASTs.
16. The CT bills and details held by the Council do not correlate with the details shown by the ASTs and BS. NI is shown as the tenant on the CT bills from 2018/19 until 2022/23. However, the ASTs indicate that the landlord was paying the CT during those periods and it is more likely than not that those details were not altered in error. Nevertheless, the CT bills indicate that from August 2015 a studio flat was assessed as paying separate CT at 51 Ickenham Road. Furthermore, the Council’s Officer Reports indicates that the CT records also show that from 18 July 2022 to 15 January 2023 a tenant with the initials DP was liable for CT.
17. Moreover, ID details of the tenants have been provided and the inventory details included within the AST for SF largely correlates with the accommodation seen at the site visit and that which can be seen in the submitted photographs taken after the construction. Those photographs and the ones taken during the construction provide little support to the LDC application regarding the date/s the works were carried out. This is because they are not date stamped and no additional details have been provided to indicate when they were taken. Additionally, no corroborating evidence such as invoices for the construction work, kitchen or bathroom has been submitted.

18. However, whilst the ASTs do not include a floor plan it is more likely than not that the cited studio flat within the ASTs and the CT bills is the accommodation shown in the photographs and viewed at the site visit. That studio flat contains all of the facilities required for day-to-day private domestic existence, including a living area/kitchen, a shower room and bedroom. Access to the flat is separate to the main house and there is no internal access between the flat and the main house. There is physical separation between them even though the occupiers of the flat can access the garden and parking areas associated with the main house.
19. In addition, the flat does not appear to have a separate electricity or water supply. According to the ASTs, the rent was inclusive of all bills therefore, there are no separate utility bills. Nevertheless, those arrangements are entirely typical of landlord/tenant relationships. How the landlord chooses to have the services supplied or charge for bills does not dictate whether the flat has been used as a separate dwellinghouse for the purposes of section 55 of the 1990 Act. Moreover, the appellant and his wife appear to have claimed a tax exemption regarding the Rent a Room scheme. That scheme does not apply where a flat is occupied separately to the main house. Yet, it is not within my jurisdiction to determine whether that tax exemption/s was/were correctly claimed.
20. There is no evidence before me to indicate that any of the tenants of the flat are/were related to the appellant. Moreover, given the ASTs it is more likely than not that those tenants have occupied the flat as a totally separate household to that of the appellant. Therefore, the use of the studio flat appears to have been functionally separate to that of the main house, 51 Ickenham Road.
21. I acknowledge that at some time the garage door and the fence/gate that are shown on the photograph¹ submitted by the Council have been removed/replaced. Furthermore, it is unclear from the evidence before me, when the single storey covered area adjoining the entrance door to the studio flat was constructed. Nevertheless, the LDC application relates to the use of the studio flat and does not relate to operational development.
22. The Council have also indicated that because the fence/gate concealed the flat entrance and none of the plans associated with previous planning applications showed the flat it considers the appellant deliberately concealed the flat. The Council has also indicated that none of the occupiers of the flat have been or are on the electoral register and that the address for the flat has not been added officially. Nonetheless, when viewed in totality, as a matter of fact and degree the evidence presented indicates that on the balance of probabilities that a change of use took place before 27 June 2018 and that the use of part of the ground floor of 51 Ickenham Road as a self-contained studio flat then continued for 4 years after the date of the change without significant interruption.
23. The Supreme Court found in *Welwyn Hatfield Borough Council v Secretary of State for Communities and Local Government* [2011] UKSC 159 (Welwyn Hatfield) that Mr Beesley's conduct was sufficient to deprive him of the immunity from enforcement action normally granted by section 171B of the 1990 Act. Whether there has been positive deception/deliberate concealment is a fact sensitive question. A spectrum of wrongdoing exists, ranging from cases where an appellant is simply unaware of the need for planning permission to at the other

¹ Appendix 3 of the Statement of Case

extreme those who carry out a deliberate, elaborate, and sustained plan to deceive the Council from first to last.

24. In this case, the garage door was left in place and the entrance to the flat was on the side of the main house, not visible from the public highway. It appears that the flat was not shown on any of the floor layouts submitted with planning applications for development at 51 Ickenham Road. However, there is little to indicate that these actions were taken to deliberately conceal the studio flat. Furthermore, a cursory examination of the CT records would have indicated that a separate CT bill for a studio flat was being paid.
25. In my judgement, the evidence does not demonstrate that the studio flat was deliberately concealed or that there was a planned course of deception designed to circumvent planning control and escape enforcement. The appellant appears to have mostly pursued deliberate inaction rather than taking sustained or actively deceptive steps. Overall, the appellant's conduct did not amount to the degree of deception necessary to engage the principles set out in Welwyn Hatfield.
26. I conclude therefore on balance, that there was no concealment of the change of use of part of the ground floor of no. 51 Ickenham Road as a self-contained studio flat by positive deception in matters integral to the planning process. The Welwyn Hatfield principle is not engaged, and the appellant is not deprived of the benefit of the 4-year limitation period.

Conclusion – Appeal A

27. For the reasons given above I conclude that the Council's refusal to grant a LDC for the change of use of part of the ground floor of no. 51 Ickenham Road as a self-contained studio flat is not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act.

Appeal B

Main Issue

28. The main issue is the effect of the proposal on the character and appearance of the host dwelling and the surrounding area taking into account its location within the Ruislip Village Conservation Area (RVCA).

Reasons

29. The appeal building is located on the inside of a bend and close to the junction of Ickenham Road and Church Road. It is also within an area referred to as Character Area 3 within the RVCA Appraisal. From my observations and the evidence before me I consider that the significance of the RVCA is largely derived from its medieval core, the architectural quality of its buildings and the verdant spaces between those buildings. The part of RVCA surrounding the host dwelling is characterised by large dwellings set within mature landscaped plots which creates an open and verdant setting. Those dwellings mainly date from the interwar period and are predominantly of traditional design with pitched and hipped roofs. They impart an attractive and high architectural quality to the street scene and the overall character and appearance of this part of RVCA. The appeal building, as one of those large dwellings, makes a positive contribution to the character, appearance and significance of RVCA.

30. The appeal property has been extended and altered and at my site visit I noted that it appears that all its fenestration has been replaced. Nevertheless, the replacement of that fenestration does not form part of the proposal before me. That proposal relates to a first floor and loft extension above an existing single storey extension which forms one of the rear corners of the building. At first floor level it would extend the rear elevation of the dwelling out so that it would be equal with that of a previous rear extension. The catslide roof at the side of the dwelling would be extended over most of the single storey extension. As a result, the proposal would include the removal of the lantern and most of the flat roof over the single storey extension. However, given that it is a single storey extension the lantern and flat roof do not harm the character and appearance of the host dwelling.
31. The footprint of the extension would not be overly large when considered against the overall size of the dwelling. However, as the highest part of the proposed roof would match that of the existing building the existing crown roof would be extended sideways. That existing crown roof is currently visually contained in a central area of the roof, with sections of traditional ridge detailing on both sides of it. However, the extension of that crown roof would result in a significant increase to the bulk and massing of the appeal building at roof level. Moreover, it would mean that on this side of the dwelling the highest part of the roof would be formed by a crown roof rather than a traditional ridge detail.
32. Furthermore, due to the alignment of Ickenham Road and the location of the appeal building on the inside of a bend the rear corner and side of the appeal building is visible in views from Ickenham Road when standing near the bus stop (adjacent to the Premier Inn). There is some vegetation between the dwelling and Ickenham Road. However, that vegetation appears to be largely within the garden area of the adjacent property and the level of screening and permanence of the vegetation cannot be guaranteed. Moreover, when the vegetation is not in full leaf the proposal and the extent of the crown roof and the significant increase to the bulk and massing of the appeal building would be seen in those views from Ickenham Road. In any case, the proposal would be visible from nearby properties.
33. The increase in bulk and massing and the visible extent of the crown roof would erode the original architectural quality of the host dwelling that is imparted by its hipped and pitched roof. Additionally, even though the materials would match that of the existing roof, the bulk and mass of the proposal would appear as a disproportionate addition to the host dwelling. As such its character and appearance would be harmed and its contribution to the character and appearance of the surrounding area would be materially diminished.
34. Therefore, the character, appearance and significance of RVCA would not be preserved and the expectations of the Act would not be met. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect. In the language of the Framework, and in the context of the significance of the asset as a whole the development would result in less than substantial harm to the significance of RVCA. Paragraph 215 of the Framework states that this harm should be weighed against the public benefits of the proposal. However, the limited public benefits associated with constructing the proposal would not outweigh that harm.

Other Matters

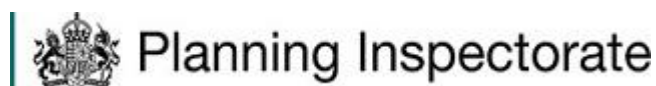
35. I note the comments of the Inspector regarding the scheme at the nearby property, 33A Ickenham Road, which also included a crown roof. However, the crown roof in that case was visually contained within a central area of the roof and as part of the overall development a flat roofed side dormer was proposed to be replaced with a more traditional two storey form under an extended hipped roof. In terms of 26 and 26A Ickenham Road, the crown roofs to the extensions are at a lower level to that on the main dwellings. Moreover, even though there are examples of crown roofs in the surrounding area the majority of roofs have a traditional pitched design together with ridge detailing. The existence of these other developments does not therefore justify the harm I have identified or establish a precedent for them to be replicated elsewhere.
36. The references to other development plan policies have been noted. However, the development plan policies to which I have referred are considered the most relevant to this appeal.

Conclusion- Appeal B

37. Taking into account all of the above, the proposal would therefore be contrary to Policy BE1 of the Hillingdon Local Plan: Part One – Strategic Policies, Policies DMHD 1, DMHB 4 and DMHB 11 of the Hillingdon Local Plan: Part Two – Development Management Policies and Policy HC1 of the London Plan. Taken together, these seek, amongst other things, to secure high-quality development which respects the design of the original house and harmonises with local context, including the preservation of the character or appearance of RVCA. It would also conflict with paragraph 215 of the Framework. I find the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan.
38. For the reasons given above the appeal should be dismissed.

D Boffin

INSPECTOR



Appeal A - 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 27 June 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and 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 evidence presented indicates that on the balance of probabilities that a change of use took place before 27 June 2018 and that the use of part of the ground floor of 51 Ickenham Road as a self-contained studio flat then continued for 4 years after the date of the change without significant interruption.

Signed

D Boffin

Inspector

Date: 26th February 2026

Reference: APP/R5510/X/24/3336736

First Schedule

Use of part of the ground floor of no. 51 Ickenham Road as a self-contained studio flat.

Second Schedule

Land at 51 Ickenham Road, Ruislip, Hillingdon HA4 7BZ

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.

Scale: Not to Scale

	<u>Site Address:</u> 51 Ickenham Road Ruislip Middlesex HA4 7BZ	<u>Drawing Content:</u> Proposed Ground Floor Plan	<u>Drawings No:</u> 51ickenhamroad2017/04	<u>Date Drawn:</u> 	Planning Issue							
	1	2	3	5	7							
			<u>Drawings Scale:</u> 	<u>Drawn By:</u> KG	<u>Revision</u>	A 1	B 1					8