
Appeal Decision

Site Visit made on 6 January 2026

by **J Whitfield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th March 2026

Appeal Ref: APP/X5210/X/24/3353527

50 South Hill Park, London NW3 2SJ

- 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 Sonu Shamdasani against the decision of the Council of the London Borough of Camden (the LPA).
 - The application ref 2024/2580/P dated 25 June 2024, was refused by notice dated 21 August 2024.
 - The application was made under section 192(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 proposed amalgamation of two self-contained maisonettes into a single dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the LPA's decision to refuse the LDC application was well-founded.

Reasons

3. The appeal building is a four-storey property currently comprising two separate maisonettes, the result of planning permission having been granted in the early 1990s.
4. The application proposes to confirm that the use of the building as a single dwellinghouse would be lawful, on the basis that the change of use from the two maisonettes to a single dwellinghouse would not constitute a material change of use and thus development. There would be no loss of residential floorspace and no alterations to the external appearance of the building are proposed.
5. Section 191(2) of the Act states that uses 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.
6. Section 55(1) of the Act defines development as including the making of a material change in the use of any buildings or other land. Section 55(3)(a) of the 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. The Act does not, however, state

whether or not a change from two or more separate dwellinghouses to a single dwellinghouse constitutes a material change of use.

7. The concept of a material change of use is not defined in statute or statutory instrument. The Courts have established that there must be some significant difference in the character of the activities from those that have gone on previously as a matter of fact and degree.
8. In *Richmond*¹ the High Court held that considering a material change of use is not solely confined to examining the external manifestations of the change. In that case, the court established that an Inspector, in granting an LDC, should have taken account of the planning considerations, including the effect of the loss of the flats, in the consideration of materiality.
9. In the case of *Royal Borough of Kensington and Chelsea*² (RBKC), the Inspector had allowed an appeal against the refusal of an LDC application for the amalgamation of two flats to a single, self-contained maisonette. The Council had refused the LDC on the basis that the amalgamation would constitute a material change of use, primarily because the change would result in the loss of a housing unit from the borough's overall housing stock. In essence, that is the position of the LPA here.
10. In *RBKC* the Inspector set out that, for the loss of the unit to be material to the concept of materiality, such a loss must have been expressed in, and supported by, a development plan policy. Whilst there were development plan policies which supported the provision of new housing and which sought to resist the loss of five or more residential units, there were no specific policies which resisted the loss of single units. The Inspector thus concluded the amalgamation did not conflict with any development plan policies and allowed the appeal on the basis the change was not material.
11. The High Court subsequently concluded that the Inspector had erred in their approach. The Court held that *Richmond* did not determine that any planning consideration must be supported by planning policy if it is to be relevant to determine whether a material change of use would be involved. Rather, the Council could rely on their analysis of the effect of conversion on housing supply in support of their view on materiality and the Inspector should have considered whether that factor was significant in their assessment of materiality. The Inspector was not entitled to exclude the matter from their assessment solely on the basis it was unsupported by any planning policy.
12. Further case law is found in *Lambeth*³ where, faced with the same proposal of amalgamating two flats into a single dwellinghouse, the Inspector found that local plan policies did not specifically seek to restrict amalgamations and that, in light of the housing delivery in the Borough at the time, the loss of a single unit of accommodation would not result in significant planning consequences and thus found the proposal did not constitute a material change of use. The Court endorsed the approach.
13. As a result, the relevant principles derived from case law are that a planning purpose is one that relates to the use of land. The concept of a material change

¹ *Richmond upon Thames LBC v SSETR* [2001] JPL 84

² *Royal Borough of Kensington and Chelsea v SSCLG and others* [2016] EWHC 1785 (Admin)

³ *Lambeth v SSLUCH* [2024] EWHC 1391 (Admin)

depends upon a change in the character of the land. The need for a specific land use is a planning purpose which relates to the character of the use of land and whether the loss of an existing use would have a significant planning consequence is relevant to the assessment of whether the change is material. These matters are matters of fact and degree. Whether such a loss is explicitly addressed in a planning policy is relevant but not determinative.

14. In this case the two maisonettes are physically and functionally separable and thus having regard to the relevant tests laid down in *Burdle*⁴, I am satisfied they comprise separate planning units. No alterations that materially affect the external appearance of the building are proposed. The parties agree there would be no material difference in planning terms with regard to the effect on the living conditions, the environment or infrastructure arising from the proposed change.
15. Policy H1 of the Camden Local Plan 2017 (the LP) sets out that the LPA will aim to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing. The policy is designed to set out the delivery target of housing across the plan period and measures as to how that will be exceeded. It states that it will exceed a target of 16,800 additional homes from 2016/17 – 2030/2031. This is inclusive of 11,130 what are described as additional self-contained homes. The supporting text indicates that this an annualised target of 1,176 additional homes for the period 2016/2017 – 2020/2021 and an annualised target of 1,092 for the period 2021/2022 – 2030/31. This sits slightly above the London Plan 2021 target for Camden of 1,038 net housing completions per annum.
16. Policy H1 appears to be concerned with the broader purpose of increasing the overall housing supply in the Borough. It does not seek to resist amalgamations or the loss of housing numbers.
17. Policy H3 of the LP states that the LPA will seek to ensure that existing housing continues to meet the needs of existing and future households by: a) resisting development that would involve a net loss of residential floorspace; b) protecting housing from conversion to short-stay accommodation; and c) resisting development that would involve the net loss of two or more homes.
18. In this instance, there would be no net loss of residential floor space. That is agreed. Likewise, it is not proposed to convert the property to short-stay accommodation. Finally, the proposal would result in the net loss of one home, not two or more. As a result, there would be no conflict with Policy H3 of the LP.
19. Nonetheless, Policy HC1 of the Hampstead Neighbourhood Plan 2018-2033 (the HNP) states that, except in exceptional circumstances, housing proposals will not be supported which would result in the loss of small, self-contained dwellings, either studio or 1 or 2 bedrooms, in conversion. In this instance, whilst there would only be a net loss of 1 unit of residential accommodation, there would be the loss of two, small self-contained dwellings of 2 bedrooms or less. There would therefore be conflict with HNP Policy HC1.
20. Overall, the proposed dwelling would continue to serve the planning purpose of providing housing as a single dwellinghouse. However, the change would have planning consequences as a result of the net reduction of one unit from the

⁴ *Burdle & Williams v SSE & New Forest RDC* [1972] 1 WLR 1207

Borough's housing stock. The need for housing is clearly a planning purpose which relates to the character of the use of land. The question in this case is therefore whether the planning consequences are of significance with regard to the previous delivery of housing within the Borough in line with the relevant development plan policies, and the effect of the loss of the unit upon that delivery.

21. The LPA has provided what it says are housing delivery figures for the years 2016/2017 through to 2022/2023. It sets out that the total number of completed self-contained homes including affordable housing in 2016/17 was net 1,263. This is a significant over delivery on both the Local Plan and London Plan targets. However, in 2017/18 there is a net delivery of 945, below both targets. Thereafter, delivery continues to decline with the target being failed to be met in all subsequent years, with the highest delivery year being 2019/20 when net completions were 985, reducing to just 358 in 2022/23. It is clear therefore, looking at delivery both annually and cumulatively over the period, against both Local Plan and London Plan targets, that, in the absence of contrary or counter evidence from the appellant, there is a clear picture that, prior to the LDC application being made, the Borough was failing to achieve its housing targets and with a chronic shortfall in housing delivery. This contrasts with the facts in *Lambeth* where the overall picture presented to the Inspector in the evidence was one of housing delivery targets being substantially exceeded.
22. As a consequence, whilst the loss of housing would equate to a single unit, it would nevertheless contribute towards the shortfall in housing delivery in the Borough. In my view, and based on the circumstances before me, I consider the planning consequence of the loss of housing arising from the proposal would be significant.
23. The appellant has drawn attention to several decisions for similar developments. The appeal at 45 Elsworthy Road related to an LDC for the amalgamation of two flats into a single dwellinghouse and was approved by the LPA. However, the LPA's reasoning for its decision is not before and thus I am unable to establish whether the circumstances and the factors taken into account are the same as those before me here.
24. Likewise, the appellant has cited decisions at 46 Gayton Road and 7 Well Road for the grant of LDCs. However, the circumstances of those cases are not before nor the factors which the LPA took into account in reaching their decision. As such, the existence of LDC approvals for the other proposals cited by the appellant carry very little weight in my considerations.
25. In addition, the appellant cites an appeal decision at 2 and 3 Wildwood Grove in which the Inspector concluded the amalgamation would not constitute development. Again, however, the circumstances of the case are not before me and I cannot be certain they were materially the same as those before me here.
26. As a result, taking all of the above into account, I find that, at the date the LDC application was made, the proposed deconversion of the two flats to a single dwellinghouse would have amounted to a material change of use and would therefore constitute development under Section 55(1) of the Act. In the absence of any evidence of planning permission having been granted for the proposed development, I find that the proposal would not have been lawful within the meaning of Section 191(2) of the Act.

Conclusion

27. For the reasons given above I conclude, on the evidence now available, that the LPA's refusal to grant a certificate of lawful use or development in respect of the proposed amalgamation of two self-contained maisonettes into a single dwellinghouse was well-founded and that the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

J Whitfield

INSPECTOR