Planning Inspectorate

Appeal Decision

Site visit made on 1 April 2026

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2026

Appeal Ref: APP/W5780/X/24/3346527
Flats 1-7, 291-293 High Road, Redbridge, Ilford, IG1 1NR

- 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 Ranjit Sokhi (Sohki and Associates Ltd) against the decision of the Council of the London Borough of Redbridge.
- The application ref 0331/23, dated 18 January 2023, was refused by notice dated 15 May 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 "Retain 7No self contained flats above a retail business which have been in use since 2010".

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. The appeal relates to seven flats situated at first floor level above a commercial property at Nos 291-293 High Road. The flats are accessed from the stairs leading from two separate external doors opening directly onto the side road at Thompson Close; flats 1-5 via one, and flats 6 and 7 via the other.

3. At the time of my site visit I was able to see the inside of flats 1, 2, 3 and 5. No access was possible to flats 4, 6 or 7. Nevertheless, I am satisfied that I am able to proceed to determine the appeal without injustice to any party because I saw enough of the units to understand the nature of the site and the parties have submitted sufficient evidence to understand the points in dispute.

4. An application under s191(1)(a) of the 1990 Act seeks to establish whether, at the time of the application, any existing use of buildings or other land is lawful. S191(2)(a) of the 1990 Act explains that uses are lawful if no enforcement action may be taken in respect of them because they did not involve development or require planning permission or because the time for enforcement action has expired.

5. The burden of proof lies with the appellant to make his case on the balance of probabilities. To that end, the appellant has submitted additional evidence with the appeal. The Council considers that to be unfair because it did not have opportunity to assess that evidence before making its decision.

6. However, it is appropriate that I consider all relevant evidence advanced at appeal, including any not submitted with the application, as the LDC provisions enable the making of a decision on the best facts and evidence then available. Indeed, it

would serve no public purpose for me to refuse an LDC strictly on the basis of the evidence submitted with the application, because it would always be open to the appellant to make a further LDC application on the basis of evidence that came to light after the Council's refusal. In any case, the Council has had opportunity to consider the evidence submitted at appeal stage and has made comment on it.

Main Issue

7. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. From the evidence before me, that turns on whether the use of the relevant parts of the building as seven, self-contained flats began more than four years before the date of the LDC application and continued without material interruption for a period of four years thereafter. The material date is therefore 18 January 2019[1].

Reasons

8. The appellant states that the conversion of the first floor to flats commenced in mid-2009 and that they began to be rented out in July 2010, when they were first registered for Council tax. Property information from the Government's Check Council Tax Band webpage shows that flats 6 and 7 were registered to pay Council tax from February 2010, and flats 1, 2, 3, 4 and 5 from July of the same year. Tenancy agreements are also provided for the flats, save for flat 6, commencing on various dates in 2010.

9. The appellant says it was at this time that the use became of interest to the Council who requested a retrospective planning application for the seven flats. That was submitted in November 2010 and refused in December 2010.

10. It is therefore very likely, based on the above, that the initial breach of planning control comprising a material change of use of the first floor of the building to seven flats occurred in 2010.

11. The evidence for the initial period thereafter is somewhat limited. Council tax bills are provided for flat 6 from 2012 and 2013, as well as two utility bills from 2012.

12. Electricity bills are provided for flat 7 for the periods between November 2016 to May 2017 and November 2018 to February 2019. Remittance advice documents for rental payments in 2015, 2016, 2018 and 2019 are also provided but they are sporadic insofar as they relate to individual flats and limited in terms of duration and continuity. Moreover, although a Government website listing of energy performance certificates is provided for all of the flats, setting out when they expire, without a valid from date, that listing provides limited assistance in itself.

13. Nevertheless, two statutory declarations (SDs) are provided, both dated 13 December 2023. The first, from the appellant, states that he is the director of Ricks Enterprises Ltd, which owns flats 1-7. He confirms that all flats have been in existence and occupied for over four years. The second SD is made by the accountant for Ricks Enterprises Ltd of over four years, who confirms that rental income from flats 1-7 have been declared in the annual accounts each year. Both

[1] The time limits for taking enforcement action are set out in s171B of the 1990 Act as amended by the Levelling Up and Regeneration Act 2023, and subject to transitional arrangements set out in the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024.

SDs would therefore cover the period from the date of the application back to at least 13 December 2019.

14. Residential lease agreements are provided between Ricks Enterprises Ltd (lessor) and Heartwood Care Group (lessee) for flats 1 to 7 for the period between 1 January 2020 and 31 December 2024 for their use as private residence for tenants from Outreach Services supplied by the London Boroughs of Redbridge and Barking and Dagenham. Statements confirming rental payments in accordance with those agreements are also provided by Heartwood Care Group for the flats for each month for the period from 1 January 2020 to 1 April 2024.

15. A letter from Heartwood Outreach Services Ltd states that they have rented and managed flats 1-7 since 2017. Also, a letter from J K Shah Accountants dated 18 November 2023 states that its client is the owner of the seven flats and that they have been let since 2015 to date, and that the rental income arising has been annually declared in the accounts of the company and submitted to HMRC and Companies House. Existing and proposed floor plans dated 6 January 2019 also show the first floor configured to provide seven flats.

16. No evidence is provided from the Council which contradicts the above. Therefore, although the evidence after the initial breach is limited, that which has been provided for the four years prior to the date of the application demonstrates that the first floor of the appeal site was being used for seven flats without material interruption, on the balance of probabilities. Accordingly, the flats have become lawful through the passage of time.

17. Under s191(4) of the 1990 Act, any LDC granted must describe the existing use or development found to be lawful. That may not be exactly what was written on the application form, and so s191(5) enables a local planning authority to modify the description. An Inspector may exercise that power on appeal and is indeed obliged to issue a LDC for any existing use or development that is shown to be lawful on the facts and evidence.

18. In this case, the LDC sought is described as “Retain 7 No self contained flats above a retail business which have been in use since 2010”. Firstly, to retain is not an act of development. Secondly, the appeal does not concern itself with any ground floor retail business. Thirdly, although the evidence is sufficient to show that it has become lawful through the passage of time, the evidence does not show a continued use from as far back as 2010. The description should therefore be modified to the existing use of the first floor as seven, self-contained flats.

Conclusion

19. For the reasons given above, on the evidence now available, I conclude that the Council’s refusal to grant a LDC is not well founded. The appeal should succeed, and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Richard S Jones

INSPECTOR

Planning Inspectorate

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 18 January 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 reasons:

It is more likely than not that an initial breach of planning control comprising a material change of use of the first floor of the building to seven flats occurred in 2010, such that the time limit for taking enforcement action was four years as then set out in section 171B(2) of the Town and Country Planning Act 1990.

It is also more likely than not that the existing use of the first floor as seven self-contained flats had taken place without material interruption for a four year period by 18 January 2023. No enforcement action could then be taken in respect of the use because the time for doing so had expired for the purposes of section 191(2) of the Town and Country Planning Act 1990.

Signed

Richard S Jones

INSPECTOR

Date: **07 May 2026**

Reference: APP/W5780/X/24/3346527

First Schedule

The existing use of the first floor as seven, self-contained flats

Second Schedule

Land at Flats 1-7, 291-293 High Road, Redbridge, Ilford, IG1 1NR

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.

Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: **07 May 2026**

by Richard S Jones

Land at: Flats 1-7, 291-293 High Road, Redbridge, Ilford, IG1 1NR

Reference: APP/W5780/X/24/3346527

Scale: Not to Scale