



Appeal Decision

Site visit made on 15 June 2026

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 June 2026

Appeal Ref: APP/K5600/X/25/3362698

**Flat 1 at 28 Brunswick Gardens and Flat 2 at 30 Brunswick Gardens,
London W8 4AL**

- 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 Romanos Brihi against the decision of Royal Borough of Kensington and Chelsea.
- The application ref CL/24/06677, dated 7 October 2024, was refused by notice dated 3 December 2024.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended) ("the Act").
- The use for which a certificate of lawful use or development is sought is installation of lockable doors between Flat 1, 28 Brunswick Gardens and Flat 2, 30 Brunswick Gardens.

Summary of 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.

Preliminary Matters

1. Section 192 of the Act enables any person who wishes to ascertain whether any proposed use of buildings or other land would be lawful to make an application. Any such application, and any subsequent appeal, is limited to whether that use would be lawful.
2. Neither the planning merits (including any impacts of the use), nor the provisions of other legislation (such as party wall legislation), are for consideration

Main Issue

3. The main issue is whether the Council's decision to refuse the application was well founded.

Reasons

The legal framework

4. The relevant matter is whether, on the date on which the application was made, the use would have been lawful. The onus is on the appellant to demonstrate that.
5. Section 191(2) of the Act states that 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.

6. Section 55(1) of the Act states that “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
7. Section 55(2) excludes certain specified operations or uses from the definition, including the alteration of a building which affects only the interior of the building or do not materially affect the external appearance of the building.
8. Section 57(1) states that planning permission is required for the carrying out of any development of land.
9. The appellant’s case is that the installation of doors between the two flats would not constitute development, either by reason of the works themselves or in relation to a change of use. And as consequence, planning permission would not be required.
10. No party has advised that any enforcement notice was in force on the date on which the application was made.

The proposed development

11. Numbers 28 and 30 Brunswick Gardens (“No 28” and “No 30”) are part of a terrace and share a party wall. Each property is subdivided into flats.
12. Flat 1 at 28 Brunswick Gardens (“Flat 1”) comprises the ground and lower ground floors of number 28. Flat 2 at 30 Brunswick Gardens (“Flat 2”) is a ground floor flat. At the ground floor the two flats share a party wall.
13. The appellant’s proposal is the insertion of a set of doors within the party wall, with each flat having its own lockable door. No other changes are proposed, and each flat would retain all the facilities required for day-to-day living.
14. The appellant advises that the doors would facilitate ease of connection between the different units for the two households, such that elderly parents could live independently while enabling occasional movement between the two units. Amalgamation of the two units into a single unit is not proposed.

Evaluation

15. The key issue before me is whether the proposals comprise development in the terms of the Act.
16. The physical works would constitute building operations. But they would take place between the two living rooms close to the internal centre of the building. If the terrace as a whole is considered to be one building, then these works would affect only the interior of the building. And if No 28 and No 30 are separate buildings, these works deep within them would clearly not materially affect their external appearance. Either way, the physical works, in themselves, would not be works of development.
17. The matter of contention between the parties is whether the effect of installing doors would result in a material change of use from two dwellings to a single dwellinghouse.
18. The Council state that the two flats would no longer be self-contained, but that is not necessarily the case. Although doors could facilitate amalgamation of the two dwellings, it would not necessarily do so.

19. The application expressly proposes two lockable doors, rather than one. That would afford the occupier of each unit the ability to lock the door into their own unit, or to unlock it to enable the neighbour to enter should they wish to do so. It also explicitly states that no other changes are to be made, such that there would remain an entrance door, kitchen, bathroom, living room, etc in each unit.
20. The ability to move between units would not necessarily result in a materially different pattern of use, and with the information before me, on the balance of probabilities, there would be no material change of use.
21. I accept the works would make it more likely that a material change of use of the flats into a single unit could occur, but the works would not make that inevitable. Were that to occur the Council would be able to take enforcement action against the material change in the usual way.
22. I note the evidence includes decisions relating to planning applications by the Council and others which come to similar conclusions in similar circumstances.

Conclusion

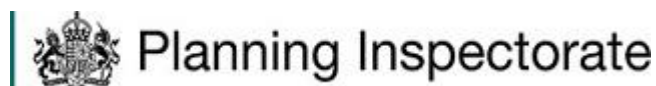
23. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for installation of lockable doors between Flat 1, 28 Brunswick Gardens and Flat 2, 30 Brunswick Gardens is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Decision

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

Peter White

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 October 2024 the operations 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, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed operations would not have constituted development on the date the application was made.

Signed

Peter White

Inspector

Date: 23 June 2026

Reference: APP/K5600/X/25/3362698

First Schedule

Installation of lockable doors between Flat 1, 28 Brunswick Gardens and Flat 2, 30 Brunswick Gardens

Second Schedule

Land at Flat 1 at 28 Brunswick Gardens and Flat 2 at 30 Brunswick Gardens, London W8 4AL

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful on the certified date and, thus, would not have been liable to enforcement action under section 172 of the 1990 Act on that date.

This certificate applies only to the extent of the 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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in this decision dated: 23 June 2026

by **Peter White**

Land at: Flat 1 at 28 Brunswick Gardens and Flat 2 at 30 Brunswick Gardens, London, W8 4AL

Reference: APP/K5600/X/25/3362698

Scale: Not to Scale

