

Appeal Decision

Site visit made on 17 July 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 29 July 2026

Appeal ref: APP/C5690/X/25/3375719

20 Bellingham Trading Estate, Franthorne Way, London SE6 3BX

- The appeal is made under section 195 of the Town and Country Planning Act 1990, (the Act), as amended by the Planning and Compensation Act 1991 against a refusal by the London Borough of Lewisham Council to grant a certificate of lawful use or development.
- The application for a certificate of lawfulness was made by Ms P Issacs on behalf of the Celestial Church of Christ Oasis of Grace, (the Christ Church).
- The Application for a Certificate of Lawful Development, (LDC), was for: the use of property as a place of worship, (Use Class F1), at 20 Bellingham Trading Estate, Franthorne Way, London SE6 3BX.
- The application dated 9 August 2025, Council ref: DC/25/141093, was refused by a notice dated 7 October 2025.
- The appeal was made by Ms P Issacs.

Summary of decision: The appeal fails. A Certificate of Lawfulness is not issued.

Appeal property

1. The appeal property, No. 20, is a unit within the Bellingham Trading Estate in Franthorne Way, London SE6 3BX. The Trading Estate is located immediately on the eastern side of the railway, close to Bellingham Station. The Trading Estate of 24 units is formed along a narrow site, with a central roadway fronted on each side by terraces of 2 storey brick-built units, typically with ground floor workshops and stores with offices above.
2. At the time of my visit, the ground floor of the No. 20 application unit was in use as a place of worship by the Celestial Church of Christ Oasis of Grace, (The Christ Church). Much of the first floor of No. 20 was set up for use as a boxing gymnasium, accessed by a stairway from a separate door to the northern side of the unit.

Application

3. The Appellant, Ms P Issacs, sought a certificate of lawfulness, (LDC), for use as a place of worship in Unit 20 Bellingham Trading Estate, within Use Class F1 - Learning and non-residential institutions, (the Town and Country Planning (Use Classes) Order 1987 (as amended)). It was claimed to have been so used for more than 10 years before the application was made.
4. Section 191(1) of the Act provides for the making of an application to ascertain whether, (a) any existing use of buildings or other land is lawful. In an LDC appeal the onus is on the appellant to make out their case to the standard of the balance of probabilities. Issues of planning merit are not relevant; there is no deemed planning application.
5. The Use Classes Order puts uses of land and buildings into various categories known as 'Use Classes'. Use Class F1 in England covers "Learning and Non-Residential

Institutions". It is primarily for buildings with an educational, cultural, or religious function, and incorporates seven specific sub-categories, including F1(f): Public worship or religious instruction.

6. The Council's reason to refuse to issue a certificate of lawfulness said it had not been shown, on the balance of probabilities, the property had been in continuous use as a place of worship, (Use Class F1), for a period of 10 years or more before the application for an LDC was made and that such use had become lawful.

Applicant

7. It was the Applicant's case that Unit 20 in the Bellingham Trading Estate had been in continuous use as a church since at least 9 August 2015. The ground floor of the building at No. 20 had been in use as a church by 2 separate church organisations.
8. The Redeemed Christian Church of God was said to have occupied the premises between 2005 and 2021. That group moved to units Nos. 17-19 in the Trading Estate in 2021. The statutory declaration by the Applicant, Ms P Issacs, stated that she was a trustee appointed by the Celestial Church of Christ Oasis of Grace, on 6 July 2018. She confirmed that the lease to that Church commenced on 18 June 2021 and that she was responsible for the letting and ongoing management of the appeal site. The site had been in use as a place of worship until the present day. However, the first floor of No. 20 above the Church had been in use as a gym/boxing club since October 2021.

Council's case

9. According to details outlined in an LDC application for Unit 19, the Redeemed Christian Church of God occupied Unit 20 in 2005 but relinquished their use in May 2019. The Unit appeared to have remained empty until 18 June 2021 when the current occupants moved in; that is, according to submitted lease and rent details. As such, Unit 20 had been unoccupied for 25 months. A break of 25 months broke the continuity required under planning law for the 10 year rule.
10. The Council said the use of No. 20 as a place of worship had been interrupted. A note from the Planning Officer's report said: "There was a previous church use on the ground floor, (first floor remained unoccupied). This use ceased in May 2019 and the Church moved to Unit 19, at which point the two units, (19 and 20) were sub-divided. No. 20 was then vacant and only occupied by the current Church in August 2021; prior to which the Church had been based in SE8."
11. The Statutory Declaration from Ms Issacs confirmed use of the property by The Christ Church on 18 June 2021. But that declaration was not evidence of 10 years of uninterrupted use as a place of worship. The submitted underlease consisted of the front page of the document only and did not evidence uninterrupted use as a place of worship for more than 10 years. The submitted variation agreement of 14 June 2021 did not evidence uninterrupted use as a place of worship for more than 10 years.

Inspector Considerations

12. In my view, there are unsurmountable problems to concluding that the claimed continuous 10 year use as a place of worship of No. 20 Bellingham Trading Estate had been shown.
13. The LDC application was for the use of property as a place of worship, (Use Class F1), at 20 Bellingham Trading Estate, Franthorne Way, London SE6 3BX. However, I was also asked to come to a decision as to whether the gym/boxing club at first floor level required planning permission or was a lawful use of the premises under Class E of the Use Class Order. In looking at that matter, I note that with regard to changes to an application, the "Wheatcroft principle", (*Bernard Wheatcroft v Secretary of State for the Environment* [1982] 43 P & CR 233), established that amendments at appeal should not materially

alter the nature of the application or prejudice the interests of those who should have been consulted. Where newly submitted considerations would result in a materially different scheme or introduce new issues, it is not appropriate for the Inspector to accept them.

14. The Council said the request constituted substantive changes that should be subject to a fresh application. I was asked to not consider the acceptability of the gym/boxing club as part of this appeal application.
15. I note that the Deputy Judge in *R (Holborn Studios Ltd) v London Borough of Hackney and GHL (Eagle Wharf Road) Ltd* 10 November 2017 [2017] EWHC 2823 (Admin) said there is no express statutory power to amend a planning application, but the courts have come to recognise that such amendments might be made in appropriate circumstances. The ability to amend a planning application cannot, however, have the effect of allowing the applicant and the local planning authority to escape the strict procedural requirements that the Town and Country Planning Act 1990 not only sets out but also stipulates must be satisfied in order for an application even "to be entertained.". I consider that unfairness would arise if I were to include an assessment as to whether the boxing club/gymnasium use is a lawful use as part of the LDC application.
16. Also, the introduction of the boxing club/gymnasium use during the period of 10 years claimed uninterrupted place of worship use may have brought about a material change of use of the planning unit at No. 20. The application for an LDC makes no mention of a mixed lawful or unlawful use of No. 20, nor a limitation of the place of worship use to the ground floor only. Consideration of that possibility was not found in the representations.
17. If I were to deal separately with the evidence of the claimed 10 year worship use of the ground floor of No. 20, I have some difficulty in separating the periods set out in leases for use of the building from the actual occupation. Intent to use is not actual use. On the evidence of the 2 parties, there was an unresolved widely varied difference in the assessing the gap in the worship use by the 2 churches. Those were matters of fact. They should have been capable of being supported by the production of clearer evidence, even possibly having been agreed between the parties.
18. There was also, albeit unavoidable, a substantial time gap in the ability of worshipers to congregate caused by the Covid outbreak. In my view, that needed further representation on the question of the acquisition of lawfulness by the passage of time. For instance, there would be little or no question of any loss of a lawful use by such a forced cessation of a use. That is because a use which was merely dormant or inactive can still be considered as 'existing', so long as it had already become lawful and not been extinguished - *Panton & Farmer v SSETR & Vale of White Horse DC* [1999] JPL 461. As to an ongoing unlawful use, there is need to show continuity of use as shown in the case of *Thurrock BC v SSETR & Holding* [2002] EWCA Civ 226 where a use can only become lawful if it continues throughout the relevant immunity period, such that the LPA could have taken enforcement action at any time.
19. On the basis of the evidence and the representations now before me, I am unable to come to the view that the appeal should succeed.

Conclusion

20. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development on the application made was well founded and that the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

John Whalley

INSPECTOR