



Appeal Decision

Site visit made on 18 August 2026

by Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2026

Appeal Ref: APP/A5270/X/25/3372928

40 Rosebank Road, Hanwell, London, W7 2EN

- 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 Moshe Baron against the decision of the Council of the London Borough of Ealing.
 - The application ref 251767CPE, dated 29 April 2025, was refused by notice dated 16 July 2025.
 - 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 the continued use of a detached outbuilding as a workshop/store/shop (Use Class E).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant did not attend the site visit to provide access to the building but I was able to see the building from the street and I have enough information from the written evidence to make a decision.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. This turns on whether the use for which the certificate is sought was lawful on the date the application was made.

Reasons

4. Advice relating to LDCs is provided by the Government's Planning Practice Guidance. This establishes that the applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Planning merits are not relevant.
5. Section 191(2) of the Act states that:
6. For the purposes of this Act uses and operations are lawful at any time if—

7. (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
8. (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
9. I have not been referred to any enforcement notice, so my decision hinges solely on s191(2)(a). The relevant time for enforcement action to expire is after 10 years of continuous use. Even after the 10 years has passed, the use must not have been extinguished by any subsequent use.
10. As evidence, the appellant has provided a screenshot of an undated Council Tax entry which refers to the "House at 40 Rosebank Road". It says "effective from 1 April 1993". He suggests that the words "House at" indicates that the garage was rated separately. However, he has not provided any entries for the garage as a separate entity. He also says that the property appears in the non-domestic rating list with a rateable value of £278 and a gross value of £375, and is described as: "Shop, House and Premises." He says this is a "Business Rates Listing" from the 1970s onwards. I do not have a copy of any such entry and I have no dated copy of any other entries in respect of Council Tax or rates. Therefore, the appellant's comments about how the site was rated in the 1970s or indeed 1993 are of little value as they are vague details.
11. He also claims that the name of the house "Rosebank Cottage" indicates that it was an ancillary or mixed-use site. However, there is no evidence to support this "naming" theory.
12. The appellant says that planning permission for a garage extension was granted in 1962. However, as there is no information about the use of the garage in connection with the 1962 approval, it does not tell me anything useful.
13. A 1968 decision notice has been submitted. The address is "40 Rosebank Road, Hanwell, W7 (flank frontage to Bostonthorpe Road)". The description of development is "the change of use of ground floor shop to offices". The permission was refused but it seems to relate to the main building at 40 Rosebank Road because the garage is not a "flank frontage". The main building has a flank wall to Bostonthorpe Road whereas the garage fronts onto Bostonthorpe Road. Furthermore, the only floor of a single storey garage is unlikely to have been described as the "ground floor".
14. A 1971 decision notice refusing permission has also been submitted. The address is "40 Rosebank Road, Hanwell, W7. (flank frontage to Bostonthorpe Road)". The description of development is "Use of retail shop for storage purposes in connection with Builders Business". For the same reasons as above, I do not believe this related to the garage. There is no mention of the garage.
15. The appellant says that the property was in the same family's ownership for over a century, with the previous owner, Ted Taylor inheriting it from his father. The appellant claims that the house itself has always functioned as a conventional dwelling and that there is no basis to suggest that the house contained a commercial ground floor. However, and on the contrary, from the above planning history, it seems that the ground floor of No 40 was once a shop. There is no planning history specifically relating to the garage as a commercial building.

16. A statutory declaration from Sangwan Howden says that she lived at the property next door to 40 Rosebank Road for approximately 40 years. She says that for the last 40 years, and until recently, Mr Taylor lived at the property. She said that, over the years, she saw Mr Taylor using the outbuilding as a means of work and that it looked and sounded like a workshop. She also says that she remembers seeing a car parked in the garden in front of the outbuilding on many occasions. She said that although she was not involved directly, she can confirm from living next door that the outbuilding was always separate from the main house, and used for independent, business-like purposes.
17. However, this statement is contradictory. On the one hand she says that Mr Taylor lived at No 40 and used the outbuilding but on the other hand she says it was always separate from the main house, and used for independent, business-like purposes. The garage is in the garden of No 40 and the resident of that dwelling was using it. It does not, therefore, sound very separate. Furthermore, she says that Mr Taylor used it for “business-like” purposes. However, she has not provided a description of what the “business-like” activity was. I would expect her to be able to provide more detail if she lived next door for 40 years. The noise she mentions might be due to a hobby rather than a business. The car parked beside the outbuilding is of no consequence as she does not say who it belonged to. If it was Mr Taylor’s, who lived there, then that would not be any indication of a business being carried on. It is quite normal to park your car on your own property.
18. The appellant has also provided commentary from a conversation he had with the owner of a local chip shop. He says that the chip shop owner told him that he had been using the outbuilding since 1996 to store “fish-and-chip shop equipment, supplies, packaging, and stock”. The chip shop owner said this use was regular and continuous with daily access, and it was always commercial, never residential or just household storage. The chip shop owner also said that he arranged the installation of the roller shutters in 2014 on behalf of the owner, Mr Taylor. He also said that he had an informal arrangement with Mr Taylor where he paid a nominal amount to use the space and that he had full access for his business storage. The appellant also says that the chip shop owner told him that Mr Taylor also sometimes stored his own building tools, machinery and fuel there.
19. The information attributed the chip shop owner does not correlate with that of Mrs Howden’s statutory declaration. She never mentioned a third party using it for storage. She said that Mr Taylor used it as a means of work and it sounded like a workshop. So far, during the same period we have claims that the building was used continuously as (1) Mr Taylor’s “means of work” which looked and sounded like a workshop, (2) Mr Taylor was a builder who used the garage for builder’s storage and (3) it was used “full access” for chip shop storage. These 3 activities are claimed to be going on all at once. This seems highly unlikely. It is only a small garage and Mr Taylor is described by each witness as having a seemingly different occupation: one in a workshop and one as a builder. The stories make for a very ambiguous situation. Furthermore, the appellant claims he has a statutory declaration from the chip shop owner but he has never supplied it, even though I have written to him to request it.
20. The dropped kerb in front of the garage door; the water and electricity supply; the “do not obstruct” and “keep clear” signs; and the roller shutter doors are not out of place for a domestic garage. In addition, other neighbours have said that they have

never observed any commercial use of the garage, including one neighbour who says she has lived on Rosebank Road since 2006.

21. The internal photograph of the garage shows garden chairs, a cushion, a vacuum cleaner, boxes, plant pots, ladders and a parasol amongst other things that I cannot identify. This looks mostly like domestic storage. The shelving the appellant refers to is typical of that seen in domestic garages.

Conclusion

22. The onus of proof is firmly on the appellant to provide evidence which is sufficiently precise and unambiguous to justify the grant of a certificate. Overall, I find that the appellant's evidence, on the balance of probabilities, does not meet this requirement and the appeal should fail. As with all LDC applications, it is open for fresh applications to be made if, for example, other evidence comes to light.

Siobhán Watson

INSPECTOR