



Appeal Decision

Site visit made on 18 August 2026

by **Peter Willows BA MRTPI**

an Inspector appointed by the Secretary of State

Decision date 16 September 2026

Appeal Ref: APP/V5570/X/25/3360983

Church Of The Most Holy Saviour, Aberdeen Park, Islington, London N5 2AR

- 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 London Diocesan Fund against the decision of the Council of the London Borough of Islington.
 - The application ref P2024/2706/COL, dated 5 September 2024, was refused by notice dated 31 October 2024.
 - 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 'Artist Studio (Research and Development E(g)ii) in the entirety of the building'.
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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.

Procedural Matters

2. The description of the use entered in the application form is as set out in the header above. The appeal form refers instead to 'Use as Artists Studio Class E'. While the same in substance, this latter description is to be preferred, since the placing of the use in a sub-set of Class E in the original description is unnecessary, as is the reference to 'the entirety of the building'. I have therefore considered the appeal on the basis of the amended wording. This minor change has no bearing on the disputed matters.
3. The supporting statement that accompanied the application clarifies that the application related to both the building and the grounds, and I have considered it accordingly.

Main Issue

4. The main issue is whether the Council's decision to refuse to issue an LDC was well founded. This turns on whether:
 - Use as an artists' studio continued uninterrupted for a 10 year period prior to the LDC application; and
 - The use that has taken place at the building falls within Class E of Part A of Schedule 2 to The Town and Country Planning (Use Classes) Order 1987 (as amended).

Reasons

General approach to LDCs

5. Advice relating to LDCs is provided by the Government's Planning Practice Guidance (PPG). 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.

Continuity of use as an artists' studio

6. The appeal building is a church. I am told that use as a church ceased in 1981. The appellant's claim is that it was subsequently used as an artists' studio falling within planning Use Class E. It is said that this continued for a sufficient period for the use to become immune from enforcement action and therefore lawful. It is for the appellant to show this, on the balance of probability.
7. Section 191(2) of the Act states that:

For the purposes of this Act 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.

8. There was no enforcement notice in force when the LDC application was made, so my decision hinges solely on s191(2)(a).
9. Section 171B of the Act sets out time limits for enforcement action. In this case, it is common ground that the relevant period is (and was at the time of the application) the 10 years specified in s171B(3) for 'any other breach of planning control'.
10. Thus, to acquire immunity from enforcement action and therefore lawfulness, the use would have needed to have carried on for a continuous 10-year period prior to the LDC application, which was made on 5 September 2024. This could be any 10 year period and need not include the period immediately prior to the LDC application¹. Once acquired, a lawful use right will remain until it is lost through some event sufficient to terminate it.
11. The appellant has provided a range of evidence to support its case. This includes:

¹ See R (oao Ocado) v Islington LBC [2021] EWHC 1509 (Admin)

- Statutory declarations from Sarah Hamilton, an Asset Manager at the Diocese of London and Steven Allbutt, the Programme Director of The Florence Trust, a registered charity.
 - Photographs of the interior of the building from relevant points in time.
 - An internet item describing Florence Trust studio residencies for 2009-10.
 - Details of exhibitions and events held at the building.
 - A 2021 pre-application planning appraisal document, which provides some information about the use of the building at that time.
 - A 'license to occupy and services agreement' document.
12. It is quite clear from the evidence that the building was occupied by The Florence Trust for a substantial period of time. Both statutory declarations state that the Trust occupied the building for the period 1990 to 2022, and the Trust is also named on planning and listed building consent applications in the 1990s.
13. The aim of the Trust, as stated on the Charity Commission website, is 'to promote for the public benefit, education in the arts and the crafts, in the first instance by the provision of tuition and facilities and opportunities for participation in arts and crafts activities primarily but not exclusively at St. Saviour's Church, Highbury, London N5 2AR'. That does not, on its own, show specifically how the building was used, but it is plainly consistent with the appellant's claims.
14. The two statutory declarations provide further detail. The declaration of Sarah Hamilton states that the Florence Trust operated the building as a commercial artists' studio. The statement of Steven Allbutt is consistent with this and refers to an *Artist Support Programme* that provided support for twelve artists per year. It states 'the support provided included use of studio space within St Saviours, together with critical support and wider introductions within the industry'. It adds 'I was familiar with the Trust's work at St Saviours prior to becoming the Programme Director, my having been one of the artists that benefited from the Trust's support programme in 2008/2009'. This indicates a direct knowledge of the activities of the Trust over a long period of time.
15. The 2021 pre-application planning appraisal document provides some information about the use of the building at that time. It again indicates that the building was leased to 12 artists for studio use. The building was sub-divided with temporary timber and plasterboard partitions to provide each artist with an area within the building. A plan shows the partitioning covering much of the floorspace of the church, although it does not indicate when it was erected and it was no longer in place when I inspected the building. The document indicates that the church was not open to the general public, other than for an annual exhibition.
16. A photograph has been provided showing the partitioning within the building. Another photograph, said to be from 2021, shows somebody at work on an art work. There are also photographs of open days. Although the photographs are not date-stamped, I have no reason to doubt the dates claimed.
17. An internet page invites applications to the Florence Trust for studio residencies in 2009-10. It is clear from the item that studio space within the Church is being offered.

18. In my view, this evidence, taken as a whole, adequately supports the appellant's claim, on the balance of probability, that the building was used as artists' studios continuously for a period in excess of 10 years prior to the LDC application. The amount of detail varies over the years and I cannot simply assume that it was always used as artists' studios while occupied by the Trust. However, the Statutory Declaration of Steven Allbutt indicates direct knowledge of the use of the building from at least 2008/9, and indicates continued studio use from that point. The 2021 pre-application appraisal is good evidence that use as studios was still in place at that time. From this and the other information highlighted above, it appears probable to me that the building was actively used as artists' studios at least during the period 2008/09 until 2021, and quite possibly for considerably longer.
19. As the Council points out, there are gaps in the available information. There are a limited number of photographs, and those that have been provided are not date-stamped. There are few details of the artists or their work and no detail of the actual processes carried out at the site. Further details of that type might have bolstered the appellant's case.
20. However, a significant amount of evidence has been provided and consistently indicates use of the building for artists' studios for an extended period in excess of 10 years while operated by the Florence Trust. There is nothing before me to cast doubt on the statutory declarations, and I attach significant weight to them.
21. There is nothing either to indicate any other use of the building during any relevant period. While the 2021 pre-application document refers to an existing lawful Class F1 'social infrastructure' use, it appears to me that that was based on the advice of Council officers as to the use class if it remained in use as a church. There is no substantive information before me to suggest that the building has actually been used as a church during the period under consideration. A reference in a 2021 pre-application design report to use 'as a centre for the creative arts and for Christian religious worship' related to what was permitted under the lease and did not indicate actual use as a church.
22. Viewed as a whole, the evidence before me demonstrates, on the balance of probability, that the building had been continuously used primarily as artists' studios for more than 10 years prior to the LDC application. Consequently, the use was lawful well before the LDC application was made. There is nothing to suggest any subsequent event that would have affected the lawfulness of the use prior to the application. Indeed, the appellant advises that it continued to be use as artists' studios after the lease with the Florence Trust expired. The appellant has provided a License to Occupy and Services Agreement document dated 14 March 2022, which refers to a permitted use 'as a temporary studio and for general caretaking', which appears consistent with that claim.

Class E

23. There is no dispute that an artists' studio is at least capable of falling within Class E. The appellant claims that the artist studio use here falls within the E(g)(ii) sub-set of Class E, which concerns 'the research and development of products or processes'. It seems to me a somewhat strained use of language to refer to making art as 'the research and development of products or processes'. However, Class E also includes at E(g)(iii) 'any industrial process' (subject to it being a use, which

can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit).

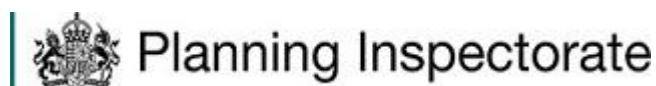
24. The Use Classes Order establishes at Article 2 that “industrial process” means a process for or incidental to purposes including ‘the making of any article or part of any article (including a ship or vessel, or a film, video or sound recording)’. It seems to me that the creation of items of art would, in most cases, fall naturally within that definition. An appeal decision from 2014, together with extracts from 2 planning use directories and The National Land Use Database provided by the appellant support my view that artists’ studios are generally likely to fall within Class E.
25. The Council argues that there is insufficient information to demonstrate Class E use in this instance, and that the actual use of the building might not fall within a use class at all. However, I am satisfied that this building has been used primarily for the making of items of art, such that the use can properly be regarded as falling within Class E. The annual open day, during which art works were displayed, does not indicate any different use, but is rather a reflection of the primary use as an artists’ studio in which items of art were made. That is consistent with a Class E use. None of the evidence supplied by the Council suggests to me any activity which would place the use outside Class E.
26. I conclude that the artists’ studio use the appellant has demonstrated falls within Class E.

Conclusion

27. For the reasons given above, I conclude, on the evidence now available, that the Council’s refusal to grant a certificate of lawful use or development 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) and grant the certificate the appellant seeks.

Peter Willows

INSPECTOR



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 5 September 2024 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 reason:

Sufficient evidence has been submitted to demonstrate, on the balance of probability, that the building had been used for an artists' studio for more than 10 years prior to the LDC application. Use as an artists' studio in this instance is correctly described as falling within Class E of Part A of Schedule 2 to The Town and Country Planning (Use Classes) Order 1987 (as amended), being an 'industrial process' of a kind compatible with E(g)(iii).

Signed

Peter Willows

Inspector

Date: 16 September 2026

Reference: APP/V5570/X/25/3360983

First Schedule

Use as Artists Studio Class E

Second Schedule

Church Of The Most Holy Saviour, Aberdeen Park, Islington, London N5 2AR

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.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 16 September 2026

by Peter Willows

Land at: Church Of The Most Holy Saviour, Aberdeen Park, Islington, London N5 2AR

Reference: APP/V5570/X/25/3360983

Scale: Not to Scale

