



Appeal Decision

Site visit made on 3 September 2026

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2026

Appeal Ref: APP/J0350/X/25/3363201

Flat at Rear of 160 Burnham Lane, Slough SL1 6LE

- 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 Santokh Bakshi against the decision of Slough Borough Council.
 - The application ref P/20634/00, dated 22 August 2024, was refused by notice dated 24 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 the continued use of part of the rear ground floor as a self-contained flat since 1st April 2001.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the refusal of the Council to issue a certificate was well founded. This turns on whether the appellant can show, on the balance of probability, that the existing use is immune from enforcement action due to the passage of time.

Reasons

3. Section 191(2) of the Town and Country Planning Act 1990 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.
4. Section 171B(2) provides that, where a breach of planning control consists of the change of use of a building to use as a single dwellinghouse, no enforcement action may be taken after the end of ten years beginning with the date of the breach. For breaches occurring before 25 April 2024, the relevant period is four years. In this case, the application form claims that the use as a self-contained flat has continued since 1st April 2001. Accordingly, the four-year period applies.
5. The Council asserts that the appellant has failed to demonstrate on the balance of probabilities that the property has been continuously occupied as a self-contained flat for a period of four years prior to the submission of the application. However, the relevant test is whether the appellant can demonstrate any four-year period of continuous occupation, without significant interruption prior to 22 August 2024.

6. The LDC application is accompanied by plans showing that the accommodation to the rear of 160 Burnham Lane has independent access from the side of the building and comprises a lounge, kitchen, bedroom, utility area, shower rooms and WCs. It therefore contains the facilities necessary for day-to-day private domestic existence and is capable of being occupied as a self-contained dwelling. The layout shown on the plans is also consistent with my observations during my visit.
7. In support of his case, the appellant has provided the following:
 - A statutory declaration detailing that the appellant has occupied the unit since 2000.
 - Virgin Bills dated December 2013, May 2014, December 2017 and December 2019
 - Electricity Bills dated between April 2017 and April 2024
 - A TV licence for the flat dated May 2018
 - British Gas bills for the period October 2021- January 2022
 - OVO utility bills dated November 2021, July 2022, July 2023 and March 2024.
 - Gas Safety certificates dated between March 2017 and March 2025
 - Proof of Council Tax Paid covering the period from April 2000 to March 2024
 - Home Insurance documents covering the period February 2019- February 2025
 - A quote for an electricity supply from Southern Electric dated March 2000
 - Emails requesting information from the Council's Enforcement Officer
8. Taken as a whole, the documentary evidence indicates that the rear ground-floor flat existed and was equipped for residential use at various times. However, only the statutory declaration provides specific evidence of occupation, stating that the appellant has continuously occupied the unit since 2000. That evidence does not require independent corroboration, provided it is sufficiently precise and unambiguous. I therefore consider it in light of the other evidence before me.
9. The statutory declaration gives only the general year 2000 as the date from which the appellant has resided in the unit, without identifying a specific commencement date. That account is also inconsistent with both the application form and paragraph 4.2 of the appellant's statement, which identify 1st April 2001 as the date on which the use commenced. The planning statement further states that 'since the 1st April 2001 it was converted from space relating to the shop to an independent residential unit'. This suggests that the independent residential use could not have commenced until the conversion was complete. The evidence neither explains the discrepancy between the general reference to occupation from 2000 and the stated commencement date of 1st April 2001, nor identifies when the conversion was completed. Accordingly, the precise date of the material change of use has not been established.

10. The documentary evidence does not resolve that uncertainty. Although the appellant has provided a quotation for an electricity supply from Southern Electric (SSE) dated March 2000, a quotation does not establish that a supply was subsequently provided or that the flat was occupied at that time. Indeed, the earliest SSE bill addressed to the flat is dated April 2017, some 17 years later. The Virgin bills, dated December 2013, May 2014, December 2017 and December 2019, provide some earlier evidence that services were supplied to the flat at particular times. However, they are isolated bills at intervals of several years and do not establish continuous occupation between those dates or from the uncertain commencement date. Except for the retrospectively issued council tax records, the remaining documentary evidence also dates from 2017 onwards. Consequently, the documentary evidence provides limited support for the claimed use before 2017 and does not establish when that use commenced or that it continued without significant interruption from that time.
11. Furthermore, the Council has produced a copy of an application for a single-person council tax discount, which records that, before 1 May 2020, the appellant formed part of a household at 32 Crosswaite Way. This is inconsistent with the appellant's statutory declaration that he personally occupied the appeal property continuously from 2000. Again, no explanation has been provided for this discrepancy.
12. The name shown on the Virgin bills suggests that the person who completed the council tax discount application was the appellant's partner. The application records that she became the sole occupier of 32 Crosswaite Way on 1 May 2020 and contains a declaration that the information provided was complete and accurate to the best of her knowledge. If the appellant had previously formed part of her household, she would have been well placed to know where he ordinarily resided. However, the application does not identify when he became part of that household or establish the duration of his residence there. I therefore attach some weight to it as evidence that he formed part of the household before 1 May 2020, but its significance as to the length of that arrangement is limited. The electoral-registration evidence provides further information on this matter.
13. The Council also draws attention to information from its Electoral Registration team, which records the appellant as being registered at another address within the Borough between 17 February 2014 and 30 November 2020. This is not disputed by the appellant. Although electoral registration is not, of itself, conclusive evidence of a person's place of residence, it provides further contemporaneous evidence that is inconsistent with the appellant's account of continuous personal occupation of the appeal property during that period. I attribute significant weight to this evidence.
14. Taken cumulatively, these matters substantially reduce the weight that can be given to the statutory declaration. It does not identify a precise commencement date and is inconsistent with the dates given elsewhere in the appellant's evidence. Moreover, the council tax discount application and electoral-registration record provide contemporaneous evidence that is inconsistent with the declaration's account of continuous personal occupation. Although neither is conclusive as to where the appellant resided, the conflict is not satisfactorily explained. Consequently, I do not find the statutory declaration sufficiently precise, unambiguous or reliable to establish the appellant's occupation of the flat throughout any identifiable uninterrupted four-year period.

15. The appellant asserts that there is “no greater proof” that the ground-floor flat has been continuously used as a self-contained dwelling for more than four years than the retrospective payment of council tax covering a 24-year period. While the council tax evidence supports the existence of the flat as a separately assessed residential unit, liability for, or payment of, council tax does not establish that the appellant personally occupied it continuously. Nor, without further evidence of occupation, does it demonstrate that the flat was continuously used, without significant interruption, as a self-contained dwelling throughout any relevant 4 year period.
16. The appellant also relies on home insurance documents addressed to the flat between 4 February 2019 and 3 February 2025, annual gas safety certificates dated between 2017 and 2025, and mortgage-related correspondence addressed to the appellant at the appeal property. While these documents support the existence of the flat as a separate residential unit and indicate that it was maintained and capable of residential occupation at various times, they do not demonstrate, on the balance of probabilities, that the flat was continuously occupied as a self-contained dwelling throughout any uninterrupted four-year period preceding the application.
17. The appellant relies on *Swale BC v First Secretary of State and Lee* [2005] EWCA Civ 1568 in support of the proposition that a dwelling need not be continuously or regularly occupied for its residential use to continue. I accept that temporary absence, or a period during which a dwelling is unoccupied but remains available for residential occupation, would not necessarily interrupt its use as a dwelling. The relevant question is whether the evidence demonstrates that the use as a separate dwelling continued throughout the requisite period, notwithstanding any periods of physical non-occupation.
18. Applying that principle, neither the appellant’s registration on the electoral roll at another address nor any temporary absence from the appeal property is sufficient, by itself, to demonstrate that its use as a dwelling had ceased. However, the fact that a dwelling may remain in residential use during a period of non-occupation does not establish that this occurred in the present case. Whether the use continued throughout the requisite period must therefore be determined from the evidence as a whole.
19. In his final comments, the appellant disputes the reliability of the electoral-register information and maintains that he did not occupy another dwelling. He nevertheless submits that he could have owned or occupied another property without affecting the continuing residential use of the appeal property, which could instead have been occupied by another person. While that may be so in principle, the statutory declaration does not identify any other occupier. Nor has any other evidence been provided to demonstrate that another person occupied the flat during any period when the appellant may have been absent.
20. The appellant also responds to the Council’s reliance on the very low energy charges shown on bills for October 2021 to February 2022. He suggests that the low consumption could reflect a holiday, a stay in hospital or with relatives, or limited use of heating and cooking for financial reasons. I accept that low energy consumption is not conclusive evidence that the flat was unoccupied. However, the suggested explanations are not supported by evidence relating to the

appellant's circumstances at the time. Consequently, the bills provide only limited support for the claimed occupation.

21. The appellant further submits that the Council did not share the evidence on which it relied, seek clarification or give him an opportunity to provide counter-evidence before refusing the application. Reference is also made to the subsequent enforcement notice, the absence of a planning contravention notice and an alleged connection between enforcement action and the recovery of council tax. However, the appellant has had the opportunity to submit additional evidence and respond to the Council's case in this appeal. In any event, the burden remains on the appellant to demonstrate, on the balance of probabilities, that the claimed use is lawful.
22. Taken as a whole, the council tax, insurance, gas safety, utility and financial documents support the existence of a separately identified and serviced residential unit that was capable of occupation at various times. However, they provide limited evidence of its actual residential use during the earlier years of the claimed period and do not demonstrate continuous use throughout any uninterrupted four-year period. Moreover, the differing commencement dates, together with the electoral-registration and council tax discount evidence, undermine the reliability of the appellant's account of continuous personal occupation. Although the appellant's absence would not, of itself, mean that the residential use ceased, there is no evidence that another person occupied the flat or that it otherwise remained in residential use during any such absence. Accordingly, I am not satisfied that the evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, that the ground-floor flat was used, without significant interruption, as a separate dwelling for any four-year period before 22 August 2024.

Conclusion

23. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the continued use of part of the rear ground floor as a self-contained flat since 1st April 2001 is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

V Goldberg

INSPECTOR