



Appeal Decision

Site visit made on 30 September 2026

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2026

Appeal Ref: APP/Q5300/X/25/3366549

463-465 Hertford Road, Enfield EN3 5UT

- 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 Musa Aktas against the decision of the Council of the London Borough of Enfield.
 - The application ref 25/00151/CEU, dated 17 January 2025, was refused by notice dated 20 March 2025.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is retention of a front extension with security shutter and folding canopy.
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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 development which is considered to be lawful.

Preliminary Matters

2. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well founded or not. The case must be considered solely on the relevant legal tests, and its planning merits are of no relevance in the context of an appeal made under section 195 of the 1990 Act as amended. The appellant must show, on the balance of probabilities, that the development at the date of application is lawful.

Main Issue

3. The main issue is whether the Council's refusal of an LDC was well founded. In particular, it is necessary to consider whether the appellant has proved on the balance of probabilities that the front extension with security shutter and folding canopy was substantially completed on or before 17 January 2021 (that being four years prior to the date of the LDC application); and whether it is in contravention of any requirement of any enforcement notice then in force.

Reasons

4. If the Council has no evidence of its own, or from others, to contradict or otherwise make the version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is, on the balance of probabilities, sufficiently precise and unambiguous.

5. The time limits for taking enforcement action in England are set out in s171B of the 1990 Act as amended by the Levelling Up and Regeneration Act 2023 (LURA23), and subject to transitional arrangements set out in the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024.
6. Section 171B(1) of the 1990 Act provides that no enforcement action may be taken in respect of any unauthorised operational development after the end of the period of four years beginning with the date on which the operations were 'substantially completed' unless the breach occurred on or after 25 April 2024, in which case the period is ten years.
7. In this case, the appellant claims that the front extension, roller shutters and folding canopy have been in place since 2011, well before 25 April 2024, and therefore, the four-year rule would apply. However, the Council maintains its reason for refusing the application, which essentially is that there is insufficient and contradictory evidence to support this claim.
8. I shall focus on the appellant's evidence, the starting point being the Google Street View photographs of the frontage of the appeal site dating from September 2011 to September 2024. Whilst these show that various front canopies have been installed at the appeal site from September 2011, they clearly demonstrate that the current retractable/folding canopy, and metal framed front extension and roller shutter (painted red) have existed since at least April 2018. Furthermore, they were still in existence during my site visit in September 2026.
9. Indeed, these are all also shown in the Google Street View pictures dated April 2018 also provided by the Council within their Officer's Report. As such, the retractable/folding canopy, front extension with roller shutter have been in existence well before 17 January 2021 (that being four years prior to the date of the LDC application).
10. The Council also highlights that an Enforcement Notice issued on 11 June 2009¹ (the 2009 Notice), in part related to "the unauthorised erection of a wooden canopy fronting Hertford Road". The first requirement of that Notice requires the permanent removal of the canopy structure from the front of the premises. As such, the Council considers that the entire development is in contravention of this requirement of the Notice.
11. However, it is clear that that 2009 Notice related to a 'timber canopy' at the front of the shop. The Google Street View images provided by the appellant show that in their earliest photograph dated September 2011, the shopfront contained a canvas material (green coloured) canopy and not a timber canopy. As such, as a matter of fact, the timber canopy was removed by September 2011.
12. The current development, which as outlined above, has existed since at least April 2018, and comprises a materially different development consisting of a metal framed front extension, with security roller shutter (painted red) and a retractable canopy. Therefore, this is a separate act of development which was carried out several years after the 2009 Notice was issued and complied with.

¹ Council reference: CON/5652

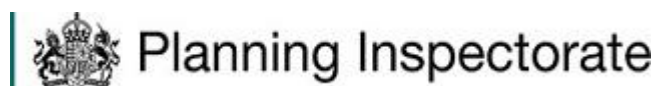
13. In addition, there is no compelling evidence before me to indicate that the current development is the same as that enforced against in 2009. Indeed, if it were the same it is most unclear why the Council has not sought their removal, since the current development has been in existence for several years. Therefore, as a matter of fact and degree, and on the basis of the evidence before me, I am satisfied that the current developments are not in contravention of any of the requirements of any Notice then in force.
14. I consider that the evidence provided is sufficiently precise and unambiguous, to demonstrate that the appellant has proven that the front extension with security roller shutter and folding canopy was substantially completed on or before 17 January 2021 (that being four years prior to the date of the LDC application) and they are not in contravention of any requirement of any Notice then in force.

Conclusion

15. An appeal against the refusal to grant an LDC is made on the grounds that the Council's decision was not well founded. In this case I conclude, on the balance of probabilities, that the front extension with security shutter and folding canopy was lawful at the time of the application because no enforcement action could be taken in respect of that development, by virtue of immunity under section 171B(1)(a) of the 1990 Act, and it does not constitute a contravention of any of the requirements of any Notice then in force.
16. It follows that the Council's decision to refuse the LDC was not well founded and that the appeal should succeed. I will therefore exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

R Satheesan

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 17 January 2025 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, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

by virtue of immunity under section 171B(1)(a) of the 1990 Act, no enforcement action could be taken in respect of the front extension with security shutter and folding canopy because it had been substantially completed more than four years prior to the application date, and they do not constitute a contravention of any of the requirements of any Notice then in force.

Signed

R Satheesan

Inspector

Date: 9 October 2026

Reference: APP/Q5300/X/25/3366549

First Schedule

Retention of a front extension with security shutter and folding canopy

Second Schedule

Land at 463-465 HERTFORD ROAD, ENFIELD, EN3 5UT

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 operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 9 October 2026

by R Satheesan

Land at: 463-465 HERTFORD ROAD, ENFIELD, EN3 5UT

Reference: APP/Q5300/X/25/3366549

Scale: Not to Scale

