

## DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers  
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

## APPROVAL RECOMMENDED: GENERAL

Select an Option

|    |                                                                                                               |                          |
|----|---------------------------------------------------------------------------------------------------------------|--------------------------|
| 1. | No valid planning application objection in the form of a petition of 20 or more signatures, has been received | <input type="checkbox"/> |
| 2. | Application complies with all relevant planning policies and is acceptable on planning grounds                | <input type="checkbox"/> |
| 3. | There is no Committee resolution for the enforcement action                                                   | <input type="checkbox"/> |
| 4. | There is no effect on listed buildings or their settings                                                      | <input type="checkbox"/> |
| 5. | The site is not in the Green Belt (but see 11 below)                                                          | <input type="checkbox"/> |

## REFUSAL RECOMMENDED: GENERAL

|    |                                                                 |                          |
|----|-----------------------------------------------------------------|--------------------------|
| 6. | Application is contrary to relevant planning policies/standards | <input type="checkbox"/> |
| 7. | No petition of 20 or more signatures has been received          | <input type="checkbox"/> |
| 8. | Application has not been supported independently by a person/s  | <input type="checkbox"/> |
| 9. | The site is not in Green Belt (but see 11 below)                | <input type="checkbox"/> |

## RESIDENTIAL DEVELOPMENT

|     |                                                                                  |                          |
|-----|----------------------------------------------------------------------------------|--------------------------|
| 10. | Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha | <input type="checkbox"/> |
| 11. | Householder application in the Green Belt                                        | <input type="checkbox"/> |

## COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT

|     |                                                                                                                                   |                          |
|-----|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 12. | Change of use of retail units on site less than 1 ha or with less than 1000 sq. m other than a change involving a loss of A1 uses | <input type="checkbox"/> |
| 13. | Refusal of change of use from retail class A1 to any other use                                                                    | <input type="checkbox"/> |
| 14. | Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use.   | <input type="checkbox"/> |

## CERTIFICATE OF LAWFULNESS

|     |                                                             |                          |
|-----|-------------------------------------------------------------|--------------------------|
| 15. | Certificate of Lawfulness (for proposed use or Development) | <input type="checkbox"/> |
| 16. | Certificate of Lawfulness (for existing use or Development) | <input type="checkbox"/> |
| 17. | Certificate of Appropriate Alternative Development          | <input type="checkbox"/> |

## CERTIFICATE OF LAWFULNESS

|     |                                                                                                                 |                          |
|-----|-----------------------------------------------------------------------------------------------------------------|--------------------------|
| 18. | ADVERTISEMENT CONSENT (excluding Hoardings)                                                                     | <input type="checkbox"/> |
| 19. | PRIOR APPROVAL APPLICATION                                                                                      | <input type="checkbox"/> |
| 20. | OUT-OF-BOROUGH OBSERVATIONS                                                                                     | <input type="checkbox"/> |
| 21. | CIRCULAR 18/84 APPLICATION                                                                                      | <input type="checkbox"/> |
| 22. | CORPSEWOOD COVENANT APPLICATION                                                                                 | <input type="checkbox"/> |
| 23. | APPROVAL OF DETAILS                                                                                             | <input type="checkbox"/> |
| 24. | ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where the Heads of Terms have already received Committee approval | <input type="checkbox"/> |
| 25. | WORKS TO TREES                                                                                                  | <input type="checkbox"/> |
| 26. | OTHER (please specify)                                                                                          | <input type="checkbox"/> |

The delegation powers schedule has been changed. Interim Director of Planning, Regeneration & Public Realm can determine this application

Case Officer:

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informative's are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DETAILS SHOULD BE USED IN THE PS2 RETURNS ODPM

## Report of the Head of Development Management and Building Control

**Address:** 126A GREEN LANE NORTHWOOD

**Development:** The sub-division of No.126A Green Lane into 7 self-contained flats  
(Application for a Lawful Development Certificate for an Existing Use)

**LBH Ref Nos:** 69148/APP/2023/2680

**Drawing Nos:** Location plan  
PL- 001 - Existing Floor Plans

**Date Plans received:** 12-09-23                      **Date(s) of Amendments(s):**

**Date Application valid** 13-09-23

### 1. RECOMMENDATIONS

#### 1.1 Recommendations

That a certificate of lawful use or development be **REFUSED** for the existing development described above in respect of the land edged red on the attached plans for the following reasons:

The existing development does not constitute Lawful Development under Section 191 of Town and Country Planning Act 1990, Section 191 as amended by Section 10 of the Planning and Compensation Act 1991 as the Applicant has not demonstrated that, on the balance of probability, the use has existed and been continuous for at least a period of four years, prior to the date of this application.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

### INFORMATIVES

#### 2.0 APPRAISAL OF EVIDENCE SUBMITTED

A Certificate of Lawfulness has been sought to determine whether or not the subdivision of 126A Green Lane into 7 self contained flats is lawful.

The applicant claims that building has been used as 7 self contained flats for longer than 4 years and therefore, the development (change of use) is exempt from enforcement action (under Section 171 B of the Town and Country Planning Act 1990).

Section 171 B (2) of the Town and Country Planning Act 1990 states 'Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach'.

In order for a Lawful Development Certificate to be granted under Section 191 of the Town and Country Planning Act 1990, the burden of providing relevant facts rests on the applicant, and the test of the evidence is the balance of probability. If there is no evidence to contradict or make the applicant's version of events less than probable and the applicant's evidence alone is sufficiently precise and unambiguous, a Lawful Development Certificate should be granted.

Overall it is therefore considered that the applicant has to show, on the balance of probabilities, that No.126A Green Lane has been subdivided into 7 independent and self-contained flats for a continuous period of 4 years from the date of the applications submission. Accordingly the use must have commenced on or before 12/09/19 and continued throughout the requisite 4 year period until at least the date that this application was submitted (12/09/23).

In terms of evidence the applicant has submitted:

- Application Form dated 31/8/23
- Location Plan
- PL- 001 - Existing Floor Plans
- Covering Letter (August 2023)
- Spreadsheet with details of tenancies
- Rental Statement
- Statutory declaration
- Check in and Check out inventories
- Tenancy Agreements and deposit assurance letters
- Copies of passports
- Bank Statements

## CONSULTEE COMMENTS

The Council's Legal Officer was consulted on the application and provided the following conclusion on the proposed development:

'the Council should refuse the application on the grounds that it does not satisfy the 4 years continuous use or meet the standards required for a residential dwelling. The application should also provide evidence of building operations as they are integral to the change of use and there is no evidence the building works meet building control or standards for residential dwellings prescribed by the Council and the government. Further, the building meets the legal tests for a HMO, therefore the 10-year rule should apply rather than 4 years for a residential dwelling that has been applied for.

As noted above I would also suggest the housing department of the Council are contacted urgently regarding the legislation stated above, the tenants may have to be moved out of the premises if fire safety deem the premises are a risk to the occupiers. The matter should also be referred to the planning enforcement team regarding the unlawful use a HMO and building operations.'

## ASSESSMENT OF LAWFULNESS

The legal test requires that evidence be provided to show that 126A Green Lane has been used as

7 independent self contained residential units for 4 years, continuously, prior to the the date of this application (i.e 12/09/2019 to 12/09/2023).

No Council Tax records or receipts have been submitted for any of the so called flats, it is therefore unlikely that they have been lawfully occupied as independent residential units. Furthermore, Officer investigation into Government Council Tax records show that only properties 126a and 126b were registered for Council Tax at the site, not 7 flats.

Statutory declarations have been submitted by the owner, but none of the buildings, previous or existing residents have submitted statutory declarations supporting their residence in any of the flats.

The submitted Bank statements show numerous payments of rent. However, they are ambiguous they do not all specify the tenant name, alongside a correlating flat number where they would have resided, for the continuous period of 4 years; this is the case for all 7 flats. Some payments include electric and the payment of car parking spaces, others do not. There are tenancy agreements for some occupants with evidence of a deposit scheme provided , others have agreements with no deposits. The photographs do not show the outdoors of the premises/communal bins/shared garden/parking facilities, however car parking charges have been taken from tenants. There are some rental payments that detail electric payments, others do not. It is not clear if there is a shared electric system for the self-contained flats, however their payments must include lighting for the common areas.

Collectively the submitted evidence and information available to the council fails to demonstrate that on the balance of probabilities, 126A Green Lane has been used as 7 self contained flats for a continuous period of 4 years from 12/09/2019 to 12/09/2023.

It is agreed with the Council's Legal Officer that insufficient evidence has been submitted to allow for this certificate of lawfulness to be granted and it is therefore recommended that the application be be refused.

### 3.0 Relevant Planning History

69148/APP/2014/2175      126A GREEN LANE NORTHWOOD

Details pursuant to conditions 3 (Amenity and Car Parking), 4 (Landscape Scheme), 5 (Noise Assessment), 6 (Brick Wall) and 7 (Lifetime Home Standards) of planning permission Ref: 69148/APP/2014/724 dated 13/05/2014 (Conversion of dwelling into 2 x 2-bed self contained flats with associated parking and amenity space)

**Decision Date:**                      12-08-2014                      Approved

69148/APP/2014/724      126A GREEN LANE NORTHWOOD

Conversion of dwelling into 2 x 2-bed self contained flats with associated parking and amenity space

**Decision Date:**                      13-05-2014                      Approved

69148/APP/2013/2801      126A GREEN LANE NORTHWOOD

Conversion of dwelling into 2 x 2-bed self contained flats with associated parking and amenity space

**Decision Date:** 03-12-2013 Refused

69148/APP/2013/1185 126A GREEN LANE NORTHWOOD

Installation of vehicular crossover to front

**Decision Date:** 02-07-2013 Refused

69148/APP/2013/1035 126A GREEN LANE NORTHWOOD

Two storey side extension, single storey rear extension and canopy to front involving the raising of roof of existing dwelling and demolition of attached garage to side.

**Decision Date:** 24-06-2013 Approved

**Contact Officer:** Haydon Richardson **Telephone No:** 01895 250230