

69148/APP/2023/2680 –

126A GREEN LANE, NORTHWOOD – REFUSAL OF LDC IN RESPECT OF CHANGE OF USE INTO 7 SELF-CONTAINED FLATS STATEMENT OF COMMON GROUND

1. The application which is the subject of this appeal was submitted to the local planning authority on 8th September 2023 via the Planning Portal and this is the date the application was valid from, under the terms of 69148/APP/2023/2680.
2. The prescribed period of determination was 3rd November 2023 however, due to issues with the local planning authority obtaining an assessment of the proposal from Legal Services, the determination was delayed, and the application was finally determined on 22nd March, 2024.
3. At that point it was refused for the following single reason:

1 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.

4. The two plans upon which the lawful development certificate (LDC) application was based are as follows:
 - **Unreferenced OS extract to show the property with the red line drawn around its entire curtilage to include the front forecourt and rear garden (received by the local planning authority on 8th September 2023);**
 - **Floor plan ref. PL-001 and dated February 2021 as prepared by "Studio RHL": this shows flat 1 as studios 1, 2 and 3 at ground floor level, and flat 2 as studios 1, 2, 3 and 4 at first floor level (received by the local planning authority 8th September 2023).**

5. The application was also supported by a covering letter prepared by Collins and Coward and dated August 2023 and supporting evidence consisting of the following:
 - Application Form dated 31/8/23
 - Location Plan
 - PL-001-Existing Floor Plans
 - Spreadsheet with Details of Tenancies
 - Rental Statement
 - Statutory Declarations
 - Check In and Check Out Inventories
 - Tenancy Agreements and Deposit Assurance Letters
 - Copies of Passports
 - Bank Statements
6. It is also agreed that Mr Haydon Richardson Area Planning Deputy team Leader sent the “legal officers” comments on the application to Mr Coward on 1st March 2024. This was a response from Jane Astbury, a locum solicitor with Legal Services and was dated 7th February 2024.
7. It is also agreed that in response Mr Richardson received the opinion of Ms Anjoli Foster of Landmark Chambers via an email from Mr Coward on 14th March 2024.
8. It is agreed that the relevant immunity period for each studio is 4 years under s.171B(2) TCPA 1990, from 8th September 2019 to 8th September 2023; the latter being the date when the local planning authority validated the application for the LDC.
9. It is also agreed that the relevant standard of proof for 4-year immunity is on the balance of probabilities and that as per the principle set out in the case of *Gabbittas v SSE Newham LBC* [1985].
10. It is also agreed that this appeal concerns immunity under Section 191 of The Act and therefore it does not concern any issue in respect of quality of accommodation, fire safety, HMOs or any other matter.
11. It is agreed that the differences between the two parties are that the appellant has failed to demonstrate that the property has been converted into 7 individual

flats which have been occupied for a continuous period of at least 4 years from the 8th September 2019 which formed the single reason for refusal.

SIGNED, Ian Coward on behalf of the Appellants

Ian Coward
.....dated 25.06.2024,
IAN COWARD, MRTPI

and

SIGNED Alan Corcoran on behalf of the local planning authority

Alan Corcoran
.....dated 25.06.2024