



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:
Krish Lakshmipathy

Proposal:
Sub-division of the existing semidetached house no.5 Primrose Gardens to provide a new flat no. 5A (Application for a Certificate of Lawful Development for an Existing Development)

Appeal Site:
5a Primrose Gardens, RUISLIP, HA4 6TY

Our Ref:
Your Ref:

61380/APP/2023/3184
APP/R5510/X/24/3345808

1. Introduction

- 1.1 This appeal statement is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of the appeal against its refusal to grant a Certificate of Lawful Development for the Sub-division of the existing semi-detached house no.5 Primrose Gardens to provide a new flat no. 5A.
- 1.2 The LPA refused the Certificate of Lawful Development on 30 January 2024 for the following reason (as stated on the decision notice):
 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.
- 1.3 The LPA's case is set out in the Planning Officer's delegated report, which should be read in conjunction with this statement. A copy of the delegated report is provided at Appendix 1.
- 1.4 This statement will not repeat the delegated report and will focus on addressing matters raised in the Appellant's statement of case.

2. LPA Comments on Appellant's Statement of Case

- 2.1 For the LPA to consider the property's subdivision and stated existing use to be lawful, the onus was on the Appellant to submit evidence demonstrating that, on the balance of probability, 5A Primrose Gardens was subdivided into a self-contained flat at least four years prior to the application date (2 November 2023), and that the self-contained flat remained in continuous use for four years prior – i.e. between 02.11.2019 to 02.11.2023.
- 2.2 On 30.01.2024, the LPA published its Planning Officer's delegated report (see Appendix 1) and issued its refusal notice that concluded the Appellant did not demonstrate that, on the balance of probability, the use of the property has existed and been continuous for at least a period of four years, prior to the date of this application.
- 2.3 The Council in the delegated report states "*The electric bills provided do not evidence a residential use of the premises, on balance it is likely to be residential use because this is what has been applied for, however I can't conclude that without evidence, the burden of proof is upon the applicant to satisfy the tests on the balance of probabilities.*" The appellant in the appeal submission has since provided Evidence of the installation of the separate Electricity Meter for the Appeal site which the Council notes.
- 2.4 The Council's delegated report further states: "*I suggest the applicant submits a statutory declaration from the occupants stating how long they have occupied the*

premises for, that it is suitable for day to day living and that it has been used as such for 4 years continuous use.” The appellants have since submitted the following sworn statutory declarations:

- 1 The Appellant: Krish Lakshmipathy – (May 2019 – present)
- 2 Current Tenant: Graham Rennie – (23.6.2022 – date of application)
3. Former Tenant: Wing Sze Yuan – (4.7.2020 – 19.12.2021)
4. Friend of the Appellant: Jaydeep Hota – (May 2019 – present)

- 2.5 The appellant contends that the appeal application now includes statutory declarations by the Appellant and former tenants of the property together with copy tenancy agreements, plans and photographs to evidence the use of the property as a self-contained dwelling. The Council maintains the view that the evidence supporting the planning application did not demonstrate 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. The additional supporting evidence submitted with this appeal however confirms 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. The Council does not therefore defend the refusal reason.

3. Conclusion

- 3.1 In the event that the Inspector considers the appeal should be allowed, the Council suggest the following condition:

The existing development constitutes 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 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.

Appendices

Appendix 1 – Planning Officer’s Delegated Report