



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:

Mr Narinder Singh Khurana

Proposal:

Confirmation of continuous use of a rear annexe as a self-contained residential studio unit
(Use Class C3)(Application for a Certificate of Lawful Development for an Existing
Development)

Appeal Site:

11A Hamilton Road, Hayes, UB3 3AR

Our Ref:
Your Ref:

5437/APP/2025/1206
APP/R5510/X/25/3376637

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 the refusal of the application for a Certificate of Lawful Development for an existing development for the Confirmation of continuous use of a rear annexe as a self-contained residential studio unit (Use Class C3) with LPA ref. 15437/APP/2025/1206 (the “Application”).
- 1.2 This appeal statement has been prepared in accordance with the PINS procedural guidance by Senior Planning Officer Christos Chrysanthou of Hillingdon Council.
- 1.3 The LPA refused planning permission on 24th June 2025 for the following reason (as stated on the decision notice):

“The 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.”
- 1.4 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 and copies of relevant planning policies have been provided separately.
- 1.5 This statement will not repeat the delegated report and will focus on addressing the additional evidence submitted by the appellant with the appeal.

2. The Appeal Site, Site History and Surrounding Area

- 2.1 The appeal site refers to a single storey outbuilding located in the rear garden of No. 11A Hamilton Road, Hayes.
- 2.2 On 7th September 2018, a certificate of lawful development was granted under LPA ref: 15437/APP/2018/2920 for a single storey outbuilding to rear for use as a gym/games room/store.
- 2.3 The appeal site is located in a residential area on the north side of Hamilton Road. The street scene is residential in character and appearance comprising mainly two storey semi-detached dwellings.
- 2.4 The application site is not located within a conservation area and no listed buildings are within close proximity.

3. LPA Comments on Appellant’s Case

- 3.1 The LPA considers that the Appellant has failed to submit sufficient evidence to demonstrate, on the balance of probability, that the appeal site has been used as a

separate dwelling for at least four continuous years prior to the date of the Application.

- 3.2 The relevant legal framework for assessing a certificate of lawfulness is contained in the following provisions in the Town and Country Planning Act 1990:

s191.— Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful;
or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

S191(2) 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);

s171B (2) 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—[(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed."

Section 55(3)(a) Town and Country Planning Act states the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used.

- 3.3 The law changed on 25 April 2024 and the ten-year period for use as a single dwelling house is applicable if the operations were substantially completed on or after 25th April 2024. Before 25 April 2024 the relevant period was four years. It is suggested by the Appellant that the use of the outbuilding as a residential dwelling occurred before 25th April 2024 and therefore the relevant immunity period is four years.
- 3.4 Paragraph 006 of the National Planning Practice Guidance (Lawful Development Certificates) makes clear that the responsibility for providing sufficient and precise evidence lies with the applicant. This proof of immunity evidence is not limited and could have included substantive or verifiable evidence—such as dated photographs, statutory declarations, bills, or other supporting documentation—that would demonstrate, on the balance of probability, that the side extension has been used as a self-contained residential unit for the requisite four-year period.
- 3.5 Evidence is required for the continuous four-year period (28-04-2021 – dated 28-04-2025) as per section 171B(2) of the Town and Country Planning Act 1990.

- 3.6 For the Inspector's ease of reference, the evidence submitted with the appeal is listed below:
- Email, dated 12 January 2026 attaching the following:
 - Landlord statement, dated 20 December 2025
 - DPS Certificate, dated 06 May 2021
 - Council Tax Bill, dated 23 April 2025
 - Council Tax Bill, dated 20 September 2024
 - Email, Galaxy real estate, dated 28 May 2025
 - Email, Galaxy real estate, dated 28 May 2025 (duplicate)
 - Photo, Visitor Record book
 - Photo of two keys
 - Assured Shorthold Tenancy Agreement, dated 29 March 2021
 - PMS 5>Accounts, dated 12 May 2025
- 3.7 With the exception of the Assured Shorthold Tenancy Agreement, dated 29 March 2021 and the Council Tax Bill, dated 20 September 2024, the above is new evidence submitted with the appeal.
- 3.8 An assessment of all the evidence submitted with the Application is provided within the case officer's report. As discussed in the case officer's report, the evidence does not clearly demonstrate, beyond reasonable doubt, that the site is or has been used for the purposes stated on the application form.
- 3.9 As stated in the NPPG, the burden of proof is upon the Applicant to satisfy the test of lawfulness. The evidence submitted with the Application did not satisfy the test of lawfulness for the use of the annexe as a separate dwelling.
- 3.10 There is no evidence of the tenants being on the electoral roll or the Annexe being registered in its own name with the Land Registry.
- 3.11 There is no evidence the Annexe is connected to its own mains or utilities gas and electric as an independent unit of accommodation for the duration of the relevant four year period.
- 3.12 The Assured Shorthold Tenancy submitted does not fully demonstrate occupancy of the appeal site as a separate self-contained unit for the relevant four-year period.
- 3.13 There is no evidence of repairs and maintenance at the property in accordance with the landlord's responsibilities or inventories which could demonstrate why there could have been a break in continuity.
- 3.14 The Accounts statement (PMS 5>Accounts) is not a verified bank statement. There is no evidence of rental income receipts in the form of verified bank statements to corroborate regular rental payments from the tenant to the Appellant.
- 3.15 In their Statement of Case, the Appellant suggests that 'Following the expiry of the initial fixed term, the tenancy lawfully continued as a statutory periodic (rollover) tenancy, with the occupier remaining in residence without interruption'. There is however no corroborating evidence.

- 3.16 With regards to the Council tax bill dated 23 April 2025, it is noted that the reason for bill: New account. It is also noted that the bill lists unpaid council tax over relevant period and is addressed to the Appellant. The Council tax bills submitted do not demonstrate actual occupation which is supported by the PINS in a very recent appeal decision set out below.
- 3.17 A relevant appeal at 20 Annexe, Central Avenue, Hayes, Hillingdon UB3 2BX was dismissed recently under Appeal Ref: APP/R5510/X/24/3342495 (LPA ref: 58347/APP/2023/2568). For the Inspector's ease of reference, a copy of the appeal decision is provided at Appendix 1. The evidence submitted with the above appeal was similar to the evidence that has been submitted with the current appeal, which included council tax bills and an affidavit from the appellant stating that the property had been rented out for an extended period of time. In dismissing that appeal, having considered the evidence, the Inspector concluded 'there is no evidence that this use continued, without significant interruption, for a period of four years' (para 9). The similarities between the two cases are comparable and the LPA would respectfully request PINS to exercise consistency in the decision-making process and note that this appeal decision is a material consideration.
- 3.18 Taken together, the new evidence submitted with the appeal and the evidence submitted with the Application is insufficient and does not demonstrate uninterrupted occupation of the appeal site as a separate unit over the relevant four year period.
- 3.19 The evidence submitted by the appellant is not considered to be sufficiently precise and unambiguous for the clear reasons given above, therefore the appeal proposal fails the NPPG test. It is the Council's view that the evidence submitted by the appellant does not demonstrate on the balance of probability that the appeal site has been occupied uninterrupted as a separate residential unit for the relevant four-year period. The LPA therefore considers the appeal should not succeed.

4. Conclusion

- 4.1 The Appellant has failed to submit sufficient evidence to demonstrate, on the balance of probability, that the appeal site has been used as a separate dwelling for at least four continuous years prior to the date of the Application. Based on the evidence submitted, the LPA maintains that the appeal should be dismissed.
- 4.2 For the reasons set out in the case officer's report and this statement, the appeal proposal does not constitute lawful development under Section 191 of Town and Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 as it has not demonstrated that, on the balance of probability, that the use has existed and been continuous for at least a period of four years, prior to the date of the Application.
- 4.3 The Inspector is therefore respectfully requested to dismiss the appeal.

Appendices

Appendix 1 – Appeal Decision: APP/R5510/X/24/3342495