



Appeal Decision

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2025

Appeal Ref: APP/R5510/X/24/3342495

20 Annexe, Central Avenue, Hayes, Hillingdon UB3 2BX

- 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 Jinderpal Hayer against the decision of the Council of the London Borough of Hillingdon.
 - The application ref 58347/APP/2023/2568, dated 31 August 2023, was refused by notice dated 22 January 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is described as 'flat used for more than 4 years as a residential use'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. No site visit was made in this case as it was not necessary for me to inspect the property internally or externally in order to determine the appeal.

Applications for costs

3. An application for costs is made by Mr Jinderpal Hayer against London Borough of Hillingdon in relation to the appeal. This application is the subject of a separate Decision.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

5. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Town and Country Planning Act 1990 (the Act) if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous.

6. Given the above, the onus is on the appellant to demonstrate that, on the balance of probabilities, the appeal property was in use as a flat for a period of four years without significant interruption prior to the date of the LDC application.
7. The copies of the Landlord/Home Owner Gas Safety Records are dated 18 February 2019, 20 February 2020, 27 February 2021, 24 February 2022 and 26 February 2023. Whilst these records suggest that gas safety checks were carried out on the property on these dates, they provide no indication of the actual occupation of the building as a flat, only that gas safety checks were carried out on these dates.
8. Council Tax has been paid on the property from 2011 onwards. However, payment details provide no indication of the occupation of the property. Similarly, the landlord insurance details, only covering the period of 2019 to 2024, provides no indication that the building was actually occupied continuously during this period.
9. Notwithstanding the above, the appellant has provided an affidavit confirming the property has been used as a flat since at least 2008-2017 when it was rented out through an agent and has continued to be rented out since. However, there is no evidence that this use continued, without significant interruption, for a period of four years. They also provide a list of three tenants, confirming that between them they have continuously occupied the flat from January 2018 up until the date of the application. However, whilst there are dates provided for when each occupant started their tenancy, there is no confirmation of when their tenancy finished.
10. Correspondence from Uxbridge College and William Morris Sixth Form is addressed to a number of people at the appeal property confirming the courses they were enrolled on. However, this only covers the period between 2012 and 2013. Moreover, two of these letters for Ermias Tefera are addressed to 81a Larch Crescent, not the appeal property.
11. The appellant also refers to 'lodger agreements'. However, no such agreements have been presented to me. Accordingly, I attribute very limited weight to these.
12. I note there was a previous LDC application for the same use submitted in 2017¹, which was subsequently refused. The Officer's Report for the application concluded there was insufficient evidence to support the granting of an LDC, noting particularly the absence of utility bills, TV licences, bank statements showing rental payments entering the applicant's bank account along with rent receipts showing continuous use for the entire four year period. I note that none of these documents have been presented in the current appeal before me. Accordingly, I attribute very limited weight to the fact a previous LDC application for the same use was submitted.
13. In addition, an enforcement case opened in 2016 that resulted in no formal action being taken. However, there is no evidence that this case concerned the use of the appeal property as a flat. Accordingly, I attribute this very limited weight.
14. I acknowledge there is no evidence to contradict the appellant's case. However, the evidence before me is not sufficiently precise and unambiguous to demonstrate that, on the balance of probabilities, the use of the appeal property materially changed to a flat and has been continuously used as such, without significant interruption, for a period in excess of four years prior to the date of the LDC application. As planning

¹ Council reference 58347/APP/2017/135

permission has not been granted for the use of the appeal property as a flat at the time the LDC application was made, the use is unlawful.

Conclusion

15. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

INSPECTOR