



Planning Statement

Certificate of Lawfulness for
residential use at:

**The Annexe, 45 East
Avenue, Hayes, Middlesex,
UB3 2HP**

Prepared By

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May 2016

1.0 Introduction

This planning statement has been produced to support an application for a Certificate of Lawfulness (CoL) made in accordance with Section 191 (1) of the Town and Country Planning Act 1990 for the use of The Annexe, 45 East Avenue, Hayes, Middlesex as an independent dwelling.

The applicant constructed the annexe in May 2010 and it was first occupied as an independent dwelling from September 2010. Since this date the annexe has been used as a rental property. This application seeks to present the required evidence detailing the annexes use as an independent dwelling. As per the requirements of Section 191 (1) of The Act, only evidence of the last 4 years is required, however, it is considered pertinent to present evidence of the annexes independent use since September 2010.



2.0 Legal Background

The Town and Country Planning Act 1990

This CoL seeks to establish that the use of The Annexe, 45 East Avenue as an independent dwelling is now lawful by virtue of Section 171B (1) and (2) of the Act;

- 1) **Where there has been a breach in planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.**
- 2) **Where there has been a breach in 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.**

Circular 11/95

Annex 8 paragraph 8.14 of Circular 11/95 highlights that Subsection (4) of Section 191 provides that if, on an application under the Section, the LPA are provided with information satisfying them of the lawfulness, they shall issue a certificate to that effect.

The Circular states that the burden of proof is on the appellant, and the courts have held that the relevant test of evidence on such matters is the 'balance of probability'.

However, the LPA should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely 'beyond reasonable doubt'.



Moreover, the Court has held (see *F W Grabbittas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not have to be corroborated by 'independent' evidence in order to be accepted. If the LPA has no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application.

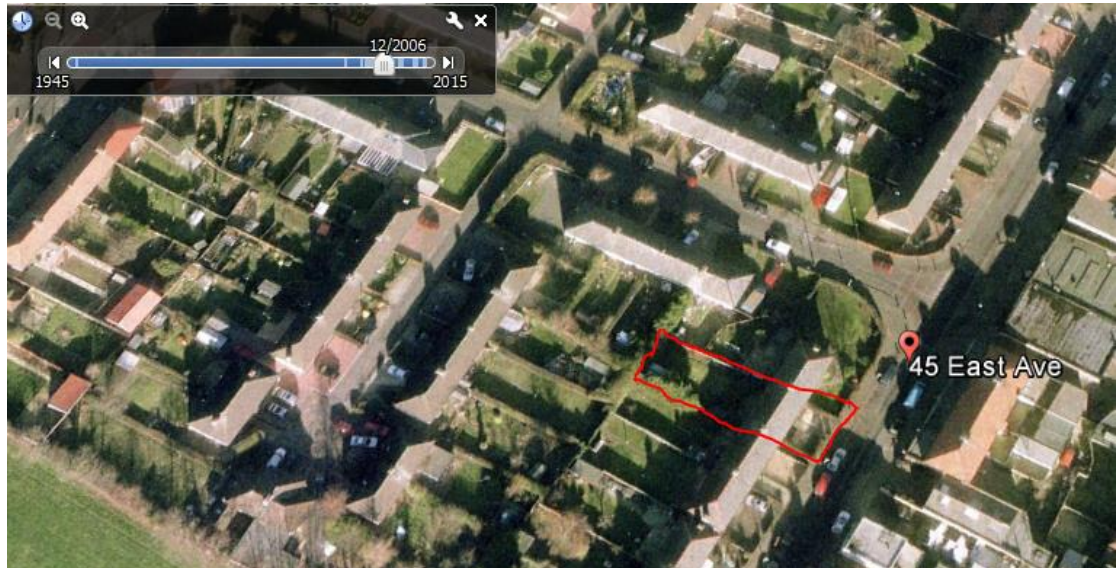
Furthermore, the LPA should proceed on the basis that neither the identity of the applicant, nor the planning merits of the operation, use or activity, are relevant to the consideration of purely legal issues which are involved in determining an application.



3.0 Evidence

This section summarises the evidence as submitted to support the Certificate of Lawfulness application. All evidence is included within the appendices attached to this statement and will be referred to where relevant.

Overhead Images



This overhead image taken from Google Earth clearly shows that no annexe was in situ in December 2006.



The June 2010 image, clearly shows that a structure is located within the garden area of 45 East Avenue



The image above was taken in June 2015 and clearly shows that the same structure remains located in the garden.

Council Tax Evidence

A simple search of the VOA website confirms that the annexe has been registered as an independent dwelling since 1st September 2010.

ANNEXE AT 45, EAST AVENUE, HAYES, MIDDX UB3 2HP

Last updated on 09/05/2016

Local authority reference number	Council Tax band	With effect from	Mixed use property	Court code	Valuation list
345613288	A	01/09/2010			1993 Challenge

ANNEXE AT 45, EAST AVENUE, HAYES, MIDDX UB3 2HP

Last update on 09/05/2016

Local authority reference number	Council Tax band	Improvement indicator	With effect from	Mixed use property	Court code
345613288	A		05/08/2013	No	

Appendix A contains council tax bills from previous tenants dating back to the 2010. For the period 2013/2014 Miss Ewa Singh is the addressee on the



council tax bill. For the period 2014/2015 Miss Ewa Singh remains the addressee on the council tax bill. The council tax bill for the period 2015/2016 is addressed to H G Enterprises (UK) Ltd.

Statutory Declarations

Appendix B contains Statutory Declarations from previous residents of the annexe and the 45 East Avenue. The applicant/landlord, of the annexe and 45 East Avenue has also provided a statutory declaration.

Ms Sunita Jora provides a statutory declaration confirming that she was a tenant of the ground floor flat within the main house from February 2007 until May 2012. Ms Jora confirms that the outbuilding was used as an independent dwelling from September 2010.

Miss Ewa Pacyga Singh provides a statutory declaration confirming that she was an occupier of the annexe from September 2010 until August 2015 and that she paid council tax of the building from September 2010.

Miss Angelika Natalia Olejarnik provides a statutory declaration confirming that she has been a tenant in the main property (45 East Avenue) since May 2012 (and still resides there now). Miss Olejarnik confirms that the annexe has been used as an independent dwelling throughout this period.

Mr Gaurav Gupta is the sole owner of the property and provides a statutory declaration confirming that the outbuilding was erected in May 2010 and was used as an independent dwelling from September 2010.



Tenancy Agreements

Appendix C contains tenancy agreements covering the period from September 2010 until the present day. The agreements are for tenants:

- Miss Ewa Pacyga Singh dated 28/09/2010. As per the affidavit above, Miss Singh remained in the property until August 2015. Additional tenancy agreements are included within appendix C.
- Mr and Mrs Weerasooriya dated from 15th August 2015. Mr and Mrs Weerasooriya remain in the property.

4.0 Conclusions

It is clear that the applicant has gapless evidence over a variety of forms that confirm that The Annexe, 45 East Avenue, Hayes, has been occupied as a permanent residential dwelling for at least 4 years.

The evidence demonstrates that the structure is immune from enforcement by virtue of subsections 1 & 2 of Section 171B of the Act.

F W Gabbittas V SSE and Newham LBC states that if the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application.

The relevant test in such matters is the 'balance of probability'. We argue that the evidence presented is far in excess of what is required by this test.

As such, we respectfully ask that a Certificate of Lawfulness is duly issued.



Appendix A – Council Tax Bills



Appendix B – Statutory Declaration's



Appendix C – Tenancy Agreements

