

**SG PLANNING  
CONSULTANTS**

**Planning Statement**

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Certificate of Lawfulness for  
residential use at:

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

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Prepared By

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## **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 45 East Avenue, Hayes, Middlesex as 2 x 2 bedroom flats.

This application seeks to present the required evidence detailing the use of 45 East Avenue, Hayes, Middlesex as 2 x 2 bedroom self contained units. As per the requirements of Section 191 (1) of The Act, only evidence of the last 4 years is required.

## 2.0 Legal Background

### The Town and Country Planning Act 1990

This CoL seeks to establish that the use of 45 East Avenue, Hayes, Middlesex as 2 x 2 bedroom flats 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.

#### Council Tax Evidence

A simple search of the VOA website confirms that 45 East Avenue, Hayes, Middlesex has been registered as two independent units, 45 and 45A East Avenue since 1 January 2007.

Property information for

#### **A, 45, EAST AVENUE, HAYES, MIDDX, UB3 2HP**

Local Authority	<a href="#">Hillingdon</a>
Local authority reference number	345613246
Council Tax band	B
Improvement indicator	No
With effect from	1 January 2007
Mixed-use property	No
Court code	None

Property information for

#### **45, EAST AVENUE, HAYES, MIDDX, UB3 2HP**

Local Authority	<a href="#">Hillingdon</a>
Local authority reference number	345613233
Council Tax band	B
Improvement indicator	No
With effect from	1 January 2007
Mixed-use property	No
Court code	None

The planning application also contains independent council tax bills for both the ground floor flat and first floor flat. Submitted are gapless council tax bills from 01/04/2019 - 31/03/2024 for the ground floor flat and from 01/04/2016 - 31/03/2024 for the first floor flat. The bills for the ground floor are in the name of Ms Anjelika Olejarnic and for the first floor in the name of Mr Paulo Da Silva and Mrs Cicilia Correia.

### Statutory Declarations

Mr Gaurav Gupta, the sole owner of the property, has provided a statutory declaration confirming that the property has been used as two independent flats for a period of in excess of 4 years.

Ms Angelika Olejarnik has provided a statutory declaration confirming that she has been a tenant in the ground floor flat since January 2013. Ms Olejarnik confirms that the property has been used as two independent flats for the duration of her tenancy.

### Tenancy Agreements

The planning application also contains tenancy agreements covering the following periods and tenants:

- Ms Angelika Olejarnik (Ground Floor): 01/01/2019 - 01/07/2023
- Mr Pankil and Mrs Priya ( Ground Floor): 31/07/2023 - Present
- Mr Paulo Da Silva and Mrs Cicilia Correia (First Floor): 15/11/2016 - Present **Note:** Mr Paulo Da Silva and Mrs Cicilia Correia have been occupying the first floor on a recurring tenancy basis since 15/11/2016

#### **4.0 Conclusions**

It is clear that the applicant has gapless evidence over a variety of forms that confirm that 45 East Avenue, Hayes, has been used as two independent flats for at least 4 years.

The evidence demonstrates that the property 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.