



## Appeal Decision

No site visit made

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 October 2025

**Appeal Ref: APP/R5510/X/24/3347170**

**Point West Building, 1040 Uxbridge Road, Hayes, Hillingdon UB4 0RJ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the 1990 Act) as amended against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Smart Housing Group against the decision of the Council of the London Borough of Hillingdon.
- The application ref 77901/APP/2023/3556, dated 7 December 2023, was refused by notice dated 28 January 2024.
- The application was made under section 191(1)(a) of the 1990 Act (as amended).
- The use for which a certificate of lawful use or development is sought is a change of use to 6 studio flats (Certificate of Lawful Development for an Existing Use).

### Formal Decision

1. The appeal is dismissed.

### Preliminary Matters

2. An application under section 191(1)(a) of the 1990 Act can only confirm whether an existing use of land is lawful. In this instance, the LDC application is seeking confirmation as to a claim of immunity for a change of use to six self-contained studio flats, and I have determined the appeal on this basis. The determination is based on the evidence submitted. It was not therefore deemed necessary to carry out a site visit in the circumstances, and no parties would be prejudiced as a result.
3. In an LDC application, the onus of proof is firmly upon the appellant. The Courts have held that the relevant test of the evidence on matters such as an LDC application is the balance of probabilities<sup>1</sup>. The Planning Practice Guidance (PPG) states the appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. 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 their evidence alone is sufficiently precise and unambiguous<sup>2</sup>.
4. The application was made prior to 25 April 2024, when the relevant provisions of the Levelling up and Regeneration Act (LURA) 2023 came into effect. Consequently, it must be proved, on the balance of probability that the use has taken place on an uninterrupted basis since or before 7 December 2019, i.e. four years prior from the date of the submitted application.

### Main Issue

5. The main issue is whether the decision of the Council of the London Borough of Hillingdon to refuse to grant an LDC for the claimed use was well-founded.

<sup>1</sup> *Thrasyvoulou v SSE & Hackney LBC (No 1)* [1984] JPL 732

<sup>2</sup> Lawful Development Certificates Paragraph: 006 Reference ID: 17c-006-20140306

## Reasons

6. From the information before me, the LDC applied for relates to six individual studio units on separate floors (ground floor through to fifth floor) with the claim that these have been in continual use as self-contained flats since 2016. The appellant's evidence has been provided in the form of fourteen Assured Short Term Tenancy (AST) agreements from several tenants at the premises. Other than the existing plans, this is the only evidence received as part of the appeal documentation, and I have taken them into account in reaching my decision.
7. The submitted ASTs relate to various tenants who are alleged to have resided within Point West Building. I would acknowledge that it is unlikely tenants would have entered into the AST agreements unless they resided at the property for the time frames indicated. The ASTs are in a standard format, providing details of the obligations of the tenants for a 12 month period and are signed by the relevant tenants associated with each of the units. However, none of the ASTs provide details for an uninterrupted four year period either pre or post December 2019.
8. There are also significant gaps in occupancy between tenants, with some units appearing to have been vacant for several months at a time. Furthermore, I am unclear on the occupancy of the second floor unit between 2017 and 2018, as there appears to be two separate ASTs at the same property for two different tenants<sup>3</sup> at the same time.
9. Overall, I find that there is a distinct lack of evidence submitted with this appeal. There is no addressed correspondence which could include utility bills, services records, bank statements etc for any of the units referred to, which could have assisted in corroborating the information contained in the submitted ASTs. Furthermore, I have been presented with no Council Tax records or sworn information, such as Statutory Declarations made under the provisions of the Statutory Declarations Act 1835, to provide precise and unambiguous evidence that the use has occurred on an uninterrupted basis for the requisite four year period.
10. Consequently, I find the submitted evidence is inconclusive, lacks detail, and is not sufficiently precise and unambiguous for me to conclude, on the balance of probability, that the use as six self-contained studio flats has been uninterrupted for four years from the date the LDC was made. Whilst this does not mean that the use is unlawful, it does mean that the appellant has failed to provide the necessary evidence for an LDC to be issued at this stage.

## Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of the material change of use to six self-contained studio flats is well-founded, and consequently the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

*Robert Naylor*

INSPECTOR

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<sup>3</sup> 12 month AST dated 9 February 2017 signed by Fatema Begum and further 12 month AST dated 18 August 2017 signed by Samia Ahmed both for 210 SECOND Floor Flat, 1040 Uxbridge Road, UB4 0RJ