The Planning Inspectorate

Appeal Decisions

Inquiry opened on 26 October 2010
Site visit made on 27 October 2010

by Alan Woolnough BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 November 2010

Appeal A: APP/X5210/X/10/2124828
First, second and third floors, 11 Charlotte Place, London W1T 1SJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Jonathan Hager of Acemark Properties Ltd against the decision of the Council of the London Borough of Camden.
- The application ref no 2009/5195/P, dated 3 November 2009, was refused by notice dated 23 December 2009.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The proposed use for which a LDC is sought is described on the application form as: 'Use of 5 non-self contained household units as 3 self-contained household residential units'.

Summary of Decision: The appeal is allowed and a certificate of lawful use or development is issued in the terms set out below in the formal decision.

Appeal B: APP/X5210/A/10/2124799
First, second and third floors, 11 Charlotte Place, London W1T 1SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Jonathan Hager of Acemark Properties Ltd against the decision of the Council of the London Borough of Camden.
- The application ref no 2009/2836/P, dated 3 July 2009, was refused by notice dated 14 October 2009.
- The proposed development is described thus on the application form: 'My client is proposing to convert five bedsits, into three self contained units. These are spread over three floors with a unit on each. In addition there will be common parts on each floor, which will allow access to each bedsit giving access to the flats. No external work or extension to the property will be required'.

Summary of Decision: The appeal is not determined.

Procedural matters

1. The Inquiry sat for two days, closing on 27 October 2010.

2. The Appeal A application was purported to have been made under section 191 of the 1990 Act as amended, forms for this purpose having been used and reference to section 191 having been made in the appeal submission itself. However, the use for which a LDC is sought was proposed rather than existing when the application was made and, indeed, remains so. Accordingly, as reflected in the Council's decision notice, the application was in effect made

under section 192. At the Inquiry, the parties agreed that section 192 is the correct statutory provision and I will determine Appeal A on this basis.

3. The descriptions of the proposed use given in the two sets of application forms and decision notices differ markedly. Nonetheless, the conversion scheme pursued is exactly the same in each case. The parties agreed that, for the sake of consistency, the proposal should be described as 'the use of residential accommodation comprising five non-self contained bedsits as three self contained flats', subject to the Appellant's caveat that HMO licensing requirements effectively restrict the upper floors of the property to only three usable bedsits[1]. No prejudice to the interests of any party arises from the use of this revised description and I will therefore proceed on this basis.

The section 195 appeal – Appeal A

Legal parameters

4. Section 192(2) of the 1990 Act as amended provides that if, on application under that section, a local planning authority is provided with information satisfying it that the use described in the application would be lawful if instituted or begun at the time of the application, it shall issue a certificate to that effect. In this case, the 'time of the application' is 3 November 2009. Under section 195(2) & (3), the determination of an appeal against the refusal of a LDC is confined to the narrow remit of reviewing the planning authority's decision to ascertain whether or not it is 'well-founded'.

5. At the Inquiry, the Appellant pursued an argument to the effect that the use of the present tense in the wording of this section (as opposed to the past tense used in the relevant commentary[2] in the *Encyclopedia of Planning Law and Practice* (EPL)) moves the point of review for an Inspector's purposes beyond the time of the application and into the present day. This is a particularly significant submission, as certain changes to the Town and Country Planning (General Permitted Development) Order 1995 as amended (the GPDO) and the Town and Country Planning (Use Classes) Order 1987 as amended (the UCO) came into force on 6 April 2010, well after the time of the application.

6. A new Class C4 was added to the Schedule to the UCO, comprising use of a dwellinghouse by not more than six residents as a house in multiple occupation (HMO) and Class C3 was amended so as to exclude uses falling within Class C4. Concurrently, Class I was introduced to Part 3 of Schedule 2 to the GPDO, providing for changes of use of a building to a use falling within Class C3 from a use falling within Class C4 as permitted development. The Appellant contends that this legislative revision should be taken into account in determining Appeal A. However, although I have disregarded the EPL commentary in considering this line of thought, I nonetheless find the Appellant's contention to be wrong in law.

7. The Council's decision, although taken in the past, continues to exist. The use of the present tense in section 195 thus directs the Inspector to review that decision having regard solely to the circumstances that applied at the time of the application. In this regard, the Inspector is obliged not only to assess the basis on which the Council interpreted the evidence known to it at that time, but also to take into account new evidence which was not previously known but

[1] I consider this question at paragraph 11 of this decision

[2] Paragraph P195.03, Encyclopedia of Planning Law and Practice (Sweet & Maxwell, June 2010)

has since come to light, as long as this clarifies circumstances as they applied as a matter of fact at the time of the application. However, nothing in the Act, relevant guidance or any case law drawn to my attention indicates that an Inspector is empowered to focus on a point beyond the time of the application and thus take into account changes in circumstance that have arisen since, such as revisions to legislation.

8. In *Saxby v SSE* [1998] JPL 1132 it was held that the only procedure to determine whether permission was required was now contained in section 192, and that the old law (referred to during the Inquiry by the Appellant's planning witness, Mr Pick) whereby every planning application was also said to include an implied application for a determination (*Property Investment Holdings v SSE* [1984] JPL 587) no longer applied. The Appellant's submission that the Courts will not hesitate to take into account changes in legislation on Judicial Review lacks relevance in the context of Appeal A. The Courts can of course take such changes on board where so empowered. However, in this case they cannot circumvent the specific wording of the Act and are bound by statute to focus on a particular point in time, as am I.

9. Therefore, on appeal, the burden of proof is firmly on the Appellant to demonstrate on the balance of probabilities that the proposal would have been lawful on 3 November 2009. The proper way for him to pursue the question of whether a LDC should now be granted on the basis of legislative changes that came into force after that date would be to make a fresh section 192 application to the Council. Accordingly, my decision on Appeal A is confined to reviewing whether the Council's interpretation of the facts as they applied at the time of the application is well-founded, and does not take into account those legislative changes.

Materiality

10. In any event, notwithstanding the above, the provisions of the UCO and GPDO only apply to development. The first step in determining Appeal A is therefore to assess whether the proposed change of use would be material and thus amount to development.

11. The Appellant has suggested that such an assessment should be made on the basis that the change of use would be from three non-self contained bedsits rather than five. This view arises from the fact that the HMO license issued by the Council on 17 February 2010 forbids occupation of three of the original bedsits and that, in the Appellant's opinion, the upgrading of facilities could only secure the lawful occupation of one of these, leaving two unusable as separate units. However, on the evidence before me, the upper floors of the appeal property were used as five bedsits at the time of the LDC application, at which point the licensing restriction had not been imposed, and had been so used since at least 1999. Therefore, notwithstanding the current absence of a licence for such a use under non-planning legislation, the correct basis for assessing the materiality of the change of use for planning purposes is five bedsits.

12. It is common ground between the main parties that when in use as a HMO comprising five bedsits the upper floors of the appeal property constituted a single planning unit. It is also agreed between them that each of the three proposed self contained flats would amount to a separate planning unit. Having regard to the relevant tests arising from the judgment in *Burdle & Williams v SSE and New Forest DC* [1972] 1 WLR 1207, I concur. However,

subdivision of the planning unit alone is not necessarily material (*Winton & Others v SSE & Guildford BC* [1982] JPL 188). Nor does the self containment of bedsits necessarily bring about a material change of use (*R v SSE & Gojkovic ex parte Kensington & Chelsea RBC* [1993] JPL 139).

13. At the time of the LDC application, the use of the upper floors of the appeal property as an HMO would have been *sui generis*, whilst the three proposed flats would have fallen within Class C3 of the Schedule to the UCO. Nonetheless, the fact that a change may entail transferral from one use class to another or, in this case, from outside any defined use class to within one does not in itself mean that the change is material. The UCO is permissive only, and not restrictive, and it is a question of fact and degree as to whether uses within different classes, or outside any defined class, are in fact materially different.

14. Applying these principles specifically to the case in hand, where an HMO is converted into self contained units, with only internal works and no increase in the number of units, then if there is no change in the overall character of the use there will be no material change of use. Such a change only becomes material if the division results, as a matter of fact and degree, in the original planning unit being used in a manner so different that it has 'planning consequences'. In this regard, it was held in *Richmond-upon-Thames LBC v SSETR & Richmond-upon-Thames Churches Housing Trust* [2001] JPL 84 that the extent to which a particular use fulfils a legitimate or recognised planning purpose is relevant in deciding whether a change from that use is material. The Court found that such a change could give rise to important planning considerations and could affect, for example, the residential character of the area, the strain on welfare services, the stock of private accommodation available for renting and so forth.

15. This being so, I must consider the planning purposes of the existing use from which the proposed change would be made, and thus the planning consequences of the loss of that use. My findings in this regard must be assessed along with other determinants of materiality in deciding whether, as a matter of fact and degree, the appeal proposal would have been lawful on 3 November 2009.

Effects on character

16. I find the 'other determinants of materiality' referred to above to be associated for the most part with the likely effects of the proposal on the character of the appeal property itself and the immediate locality. The Council perceives a significant alteration to the character of the use of the building and its surroundings by reason of the way in which the nature of occupation would change. However, I disagree.

17. At the time of application, the five bedsits had long been occupied, to all intent and purposes, by separate households which, in all probability, had little to do with each other. The only shared facilities on the premises were showers and toilets, and there was no meeting place such as a kitchen-diner where a sense of communal living might be forged. The creation of self contained units would therefore make little difference to day-to-day activity within the property. Five households would become three but, as the flats would be bigger than the bedsits, the new households would in all probability be larger. Numbers of people occupying the residential accommodation, and the comings and goings thus generated, would therefore be unlikely to alter discernibly.

18. Notwithstanding the Appellant's argument to the contrary, I find that the proposed units would be likely to attract a significantly higher rent, and thus a wealthier occupier, by simple reason of their self containment. It is also possible, irrespective of the Appellant's current intentions, that the flats could be sold individually in due course, whereas non-self contained bedsits could not. However, by reason of the busy commercial location, limited floorspace and lack of curtilage, the units as proposed would be unlikely to accommodate children, such that any changes in the profile of occupiers and type of tenure would, to all intents and purposes, be imperceptible to those living and working nearby.

19. The lengths of time for which occupiers might remain *in situ* would not be noticed by most observers and, even if they were, would not be a significant determinant of whether the character of either property or locality had altered materially. No discernible physical external changes would be associated with the proposed conversion and even the internal alterations required would be limited in extent, with use being made of some of the existing partitions and doorways. Facilities for the parking of vehicles and storage of bicycles would continue to be absent. I therefore think it most unlikely that any significant change in the character of the building or the surrounding area would result from implementation of the proposal.

Implications for policy objectives

20. On the evidence before me, the Council considers the principal planning purpose of the appeal property to be as a HMO that has the potential to contribute to the housing needs of the Borough. Saved Policy H6 of the adopted London Borough of Camden Replacement Unitary Development Plan 2006 (UDP) seeks specifically to protect HMOs of an acceptable standard, unless replaced by permanently available affordable housing. Draft Policy DP9 of the emerging London Borough of Camden Local Development Framework (LDF) provides a still stronger safeguard and, the adoption of this plan being imminent at the time of the Inquiry, carries substantial weight.

21. The supporting text to Policy H6 advises that non-self contained units with shared facilities are a valuable source of accommodation, meeting a need for low-cost housing, especially among young people, those on low incomes and single person households. It further indicates that the loss of such accommodation reduces the choice available in the Borough to those on low incomes, who have few housing alternatives. The emerging LDF presents a similarly reasoned justification for its equivalent policy.

22. The Appellant has not demonstrated that the proposed flats would meet the definition of 'affordable housing' set out in paragraph 2.16 of the UDP and, therefore, the five bedsits would fall to be safeguarded in policy terms as long as they were of an acceptable standard. Nothing before me suggests that, contrary to the Council's view, such accommodation would not cater for an identified housing need. Paragraph 2.45 of the UDP makes it clear that the term 'acceptable standard' encompasses not only HMO accommodation which presently complies with the appropriate standards under environmental health legislation but also that which is capable of reaching such standards.

23. There is no dispute that the five bedsits as they stood on 3 November 2009 did not meet the environmental health requirements of the Council. However, the Appellant has tried and failed to demonstrate that the appeal property could not be upgraded such that the upper floors could be occupied in their entirety

as a licensed HMO. I accept that one of the ways of doing so suggested by the Council, involving the creation of a kitchen diner some two floors away from the only bedsit it would be likely to cater for, lacks practicality for the reasons advanced by the Appellant at the Inquiry. However, attempts by Mr Vanson to demonstrate the impossibility of a second option, involving the relocation of partitions to create five non-self contained bedsits that would meet licensing requirements, utilised floorspace figures significantly smaller than agreed between the parties in the Statement of Common Ground, whilst his calculations during the Inquiry as to the space likely to be occupied by partitioning were inaccurate by a factor of ten.

24. Conversely, the Council has not shown that upgrading of all five bedsits in accordance with its standards would be possible. However, the burden of proof in the context of considering materiality is on the Appellant and therefore, in the absence of convincing evidence to the contrary, I accept the probability that the upper floors of the property could be retained in full use as an a HMO in a practical way, such that the creation of three self-contained flats which could be sold separately would be contrary to saved UDP Policy H6 and draft LDF Policy DP9.

25. The fact that the proposed flats would themselves, irrespective of what they would replace, fail to meet the Council's policy objectives is also a relevant consideration. These units would not comply with the Council's Residential Development Standards in terms of the minimum floorspace thresholds for new flats. Moreover, they could potentially be sold for owner-occupation, thus placing them out of reach of some of those seeking accommodation. Nor, in the Council's opinion, would they provide an adequate 'housing mix' within the appeal property. However, the fact that a proposal would be contrary to policy does not necessarily mean that it would amount to a material change of use.

26. The extent to which such matters contribute to the materiality of a change of use is a matter of fact and degree that falls to me to determine and, in doing so, I must have regard to the relatively small scale of this proposal in the context of the Council's wider housing objectives. I accept the Council's view that there is a distinction between it and the schemes cited by the Appellant concerning 28 Mornington Crescent[3] and Holly Lodge Mansions[4] which, for that reason, have not played a significant part in my deliberations. Nonetheless, the change envisaged in this case differs substantially in scale and significance from that on which the *Richmond* judgment is based, which involved the conversion of seven self-contained flats to a single dwellinghouse.

27. The replacement of five small bedsits for rent with three small flats that could potentially be sold would make, in comparative terms, very little difference to the overall profile of the Borough's housing stock, by reference to tenure or the form of the accommodation itself. Moreover, even if the units were sold individually, there is a reasonable possibility that subsequent owners would make them available for rent. Although local floorspace standards would not be met, the proposed flats would nonetheless, in my assessment, be of better overall quality than the accommodation they would replace. I therefore think it most unlikely that they would not in themselves be in demand and help to meet an identified housing need in such a central and densely populated location, whether rented or owner-occupied.

[3] Appeal decision APP/X5120/C/07/2034125

[4] Planning permissions 2003/1624/P, 2007/2416/P, 2008/0281/P & 2009/2920/P

Summary

28. I have considered the above matters together with all others raised by the parties that might be relevant to my assessment of materiality. I accept that, having regard to the *Richmond* judgment, the use of the appeal property as a HMO fulfils a legitimate or recognised planning purpose, insofar as it caters for an identified housing need. I also acknowledge that the proposed self contained flats would not meet certain local policy requirements. Nonetheless, the relevance of this in terms of the materiality of the proposal is tempered significantly by the small scale of the change envisaged and the imperceptible effect that it would have on the character of the appeal property and locality.

29. I therefore conclude that, as a matter of fact and degree, the planning consequences of the proposal, policy related or otherwise, are not significant enough when considered in tandem with all other relevant factors, to render the change of use material such that it would amount to development. Accordingly, I find on the balance of probabilities that the proposal was lawful on 3 November 2009.

Conclusion

30. For the reasons given above and having regard to all matters raised, I conclude on the evidence now available that the Council's refusal to grant a certificate of lawful use or development was not well-founded and that Appeal A should succeed. I will exercise accordingly the powers transferred to me under section 195(2) of the 1990 Act as amended.

31. In these circumstances, Appeal B does not fall to be determined, as the planning permission it seeks is not required. Nor is there a need for me to address other matters raised in the parties' written submissions and at the Inquiry, including the precise nature of the fallback position now facilitated by the changes to the UCO and GPDO that came into force on 6 April 2010.

Formal decisions

Appeal A: APP/X5210/X/10/2124828

32. I allow the appeal, and I attach to this decision a certificate of lawful use or development describing the proposed use which I consider to be lawful.

Appeal B: APP/X5210/A/10/2124799

33. I do not determine this appeal.

Alan Woolnough

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Tabachnik	Of Counsel, instructed by Mr E M Pick, E.M.Pick Planning
He called	
Mrs M Glazebrook BSc(Hons) MCIEH DMS	Glazebrook Associates Ltd
Mr P Vanson BSc(Hons) MRICS	Lamberts Chartered Surveyors
Mr E M Pick BSc(Hons) MRICS BTP MRTPI	E.M.Pick Planning

FOR THE LOCAL PLANNING AUTHORITY:

Emmaline Lambert	Of Counsel, instructed by Mr A Maughan, Head of Legal Services, London Borough of Camden
She called	
Mr B Williams BSc(Hons) MCIEH	Environmental Health Officer, London Borough of Camden
Mr J Sheehy BA(Hons) MRUP	Development Control Officer, London Borough of Camden

DOCUMENTS PUT IN AT THE INQUIRY

1 Signed Statement of Common Ground
2 Unilateral obligation dated 24 October 2010, submitted by the Appellant
3 List of suggested conditions, supplied by the Council
4 Policy CS6 of the Camden Core Strategy Proposed Submission, supplied by the Council
5 Letter dated 17 September 2010 from Robert Irving Burns Property Consultant to the Appellant, submitted by the Appellant
6 Print of e-mail dated 22 October 2010 from Peter Connell, Building Control Officer to Deborah Riley, plus attachments, submitted by the Council
7 Estate agent's particulars from Foxtons and Black Katz, submitted by the Council
8 Extracts from the Housing Health and Safety Rating System Operating Guidance, supplied by the Appellant
9 Extracts from the Housing Health and Safety Rating System Operating Guidance, submitted by the Council
10 Committee and delegated reports relating to Holly Lodge Mansions, Oakeshott Avenue, London N6, submitted by the Council
11 Letter dated 14 February 2002 from West Hampstead Housing Association to Mr Kaufman, submitted by the Appellant
12 Transcript of the judgment in *LB Richmond Upon Thames v SSETR & Richmond Upon Thames Churches Housing Trust* [2000] CO/4083/99, submitted by the Council

PLANS

A.1 to A.9	Application plans comprising location plan; ground, first, second and third floor plans as existing; and ground, first, second and third floor plans as proposed (Appeals A and B)
B	Additional application plan, namely an additional location plan on an Ordnance Survey base (Appeal B only)

The Planning Inspectorate

EST 1909

Lawful Development Certificate

APPEAL REFERENCE APP/X5210/X/10/2124828

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 3 November 2009 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 as amended, for the following reason:

The proposed change of use would not, on the date in question, have been material, and would not therefore have amounted to development requiring planning permission.

Signed

Alan Woolnough

Inspector

Date 25.11.2010

First Schedule

The use of residential accommodation comprising five non-self contained bedsits as three self contained flats as depicted in the proposed first floor, second floor and third floor drawings produced by www.greatplans.co.uk and dated 28 April 2008.

Second Schedule

First, second and third floors, 11 Charlotte Place, London W1T 1SJ.

NOTES

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

2. It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

4. The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 25.11.2010

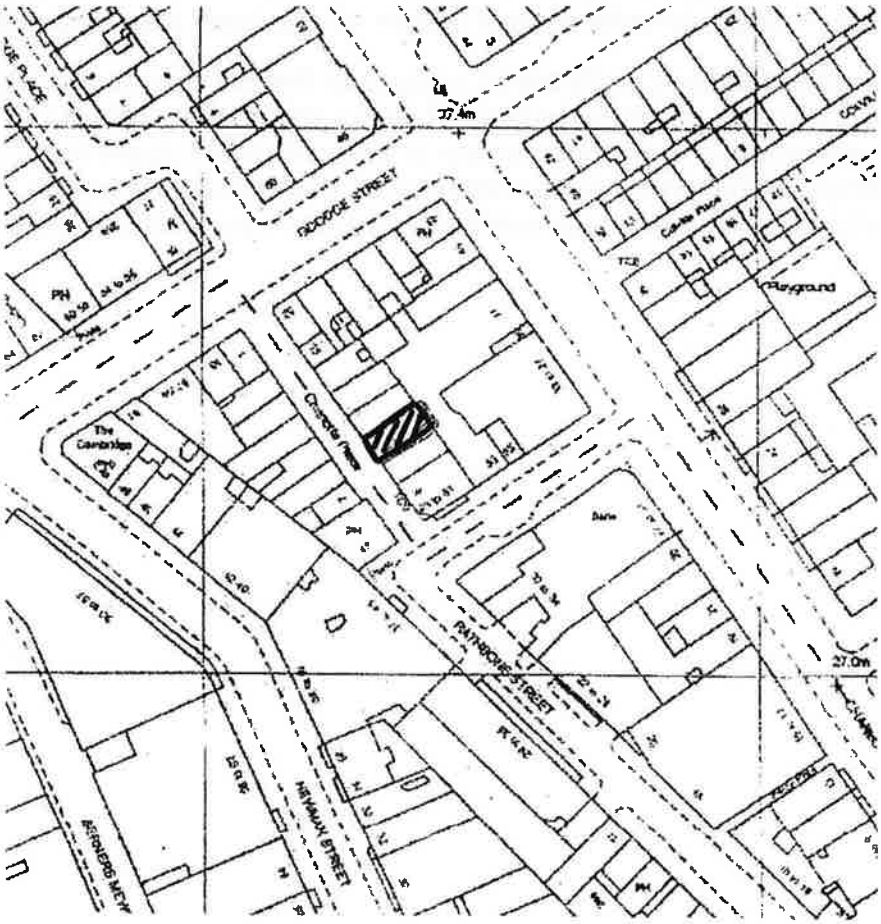
Alan Woolnough

Alan Woolnough BA(Hons) DMS MRTPI

First, second and third floors, 11 Charlotte Place, London W1T 1SJ

Appeal reference: APP/X5210/X/10/2124828

Scale not stated



The Planning Inspectorate

Appeal Decision

Site visit made on 9 January 2018

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 January 2018

Appeal Ref: APP/X5210/X/17/3172201
3 Wildwood Grove, London, NW3 7HU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Warren Evans against the decision of the Council of the London Borough of Camden.
- The application Ref 2016/5621/P, dated 14 October 2016, was refused by notice dated 11 February 2017.
- 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 use of 2 and 3 Wildwood Grove as one single dwellinghouse.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

Reasons

2. The appellant states that in 2009 works were completed to amalgamate Nos 2 and 3 Wildwood Grove into a single dwelling. The agent's application was concerned solely with the legal question of whether the amalgamation of 2 dwellings into 1 was development or not. I do not need to rehearse most of the arguments here as the Council accept that in this case there is no policy impediment to the amalgamation. However they say it would still be a material change of use due to the under occupation of the dwelling which would materially alter the character of the way it is occupied. Regardless of the outcome of this argument the actual reason for the refusal of the application was that there was no evidence the use had been undertaken continuously for 4 years or more.

3. I accept the Council's argument that a reduction in levels of occupation could lead to the finding that there had been a material change of use, regardless of whether such a change was harmful or not, as planning merits play no part in the determination of an application for a lawful development certificate. However the changes associated with the amalgamation of the two dwellings into one would have to be such that there was a material difference in the way the property was occupied, and given that the nature of the use remains residential, such a change would have to be quite significant.

4. The Council argue that in 2001, 47% of households occupying a house with 5 or more bedrooms were one or two person households. This percentage rose to 54% if the households were owner occupiers. They say it is likely therefore the house would have been occupied by a household of one or two persons and so was under occupied. This would be perceptible and significant enough to alter the character of the way in which it was occupied.

5. I have a number of problems with this approach. Rather than being "likely", the statistics suggest it is almost 50/50 whether or not the house was or would be occupied by a one or two person family. Even if it were, without figures for the likely occupation of smaller dwellings it is difficult to make any meaningful comparisons with the before amalgamation situation. Two one-person households in the original two dwellings would the same as one two-person household in the amalgamated dwelling. In any event, I find it highly unlikely that the level of occupation would be so different as to alter the character of occupation to such an extent that it would be reasonable to conclude there had been a material change of use. The Council have not explained what significant changes are likely to be perceptible due to under-occupation and there is no evidence such changes have come about. In my view the amalgamation of Nos 2 and 3 Wildwood Grove has not led to a material change of use. As such it is not development.

6. On my site visit it was evident there had been a further change, as the downstairs of No 2 was being used by the appellant's mother and the downstairs interconnecting doorway had been blocked up. The upstairs was still open between the two houses and clearly used as a single dwelling; it was from here that access to the mother's downstairs bedroom was made. However, as I do not consider the amalgamation of two into one was development in the first place, and these changes seemed to have taken place after the date of the application, I can ignore them. At the date of the application there had been no material change of use.

7. Having found the amalgamation of the dwellings is not development there is no need to consider whether or not the resultant single dwelling has been occupied continuously for 4 years or more. I shall allow the appeal and issue a certificate explaining that the use of the property as a single dwellinghouse was lawful at the date of the application.

Simon Hand

Inspector

The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 14 October 2016 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: the amalgamation of Nos 2 and 3 Wildwood Grove into a single dwellinghouse did not amount to a material change of use and so was not development that required planning permission.

Signed

Simon Hand
Inspector

Date: 15 January 2018
Reference: APP/X5210/X/17/3172201

First Schedule

Use of 2 and 3 Wildwood Grove as one single dwellinghouse

Second Schedule

Land at 3 Wildwood Grove, London, NW3 7HU

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 15 January 2018

by Simon Hand MA

Land at: 3 Wildwood Grove, London, NW3 7HU

Reference: APP/X5210/X/17/3172201

Scale: not to scale

Location Plan near NW3 7HU