

Appeal Decision

Site visit made on 6 January 2015

by P Willows BA DipUED MRTPI

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

Decision date: 10 February 2015

Appeal Ref: APP/Y5420/X/14/2216168

614a Lordship Lane, London N22 5JH

- 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 lawful development certificate (LDC) by the London Borough of Haringey.
 - The appeal is made by Mr Yakov Levy.
 - The application Ref HGY/2013/2357, dated 11 November 2013, was refused by notice dated 2 January 2014.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a lawful development certificate is sought is use as two self contained flats.
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Decision

1. The appeal is dismissed.

Procedural matter

2. There was no representative for the appellant at the site when I visited it. I was therefore unable to inspect the inside of the building. Nevertheless, the facts of this case and the information before me are such that I am able to determine the appeal without prejudice to either party.

Reasons

3. For the avoidance of doubt I should explain that the planning merits of the change of use proposed are not relevant to this appeal under section 195 of the Act. My decision rests on the facts of the case and on relevant planning law and judicial authority.
4. The appeal building is part of a terrace, which features shops at the ground floor. The shop at 614 appeared to be unoccupied when I saw it, although the signage showed that it had been a drycleaners. Next to the shop front is a separate domestic style of door labelled '614A', which provides access to the accommodation above.

5. The appellant's claim relies on Class F of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 1995, as amended, which permits the following changes of use:
 - (a) to a mixed use for any purpose within Class A1 (shops) of the Schedule to the Use Classes Order and as up to two flats, from a use for any purpose within Class A1 of that Schedule;
 - (b) to a mixed use for any purpose within Class A2 (financial and professional services) of the Schedule to the Use Classes Order and as up to two flats, from a use for any purpose within Class A2 of that Schedule;
 - (c) where that building has a display window at ground floor level, to a mixed use for any purpose within Class A1 (shops) of the Schedule to the Use Classes Order and as up to two flats, from a use for any purpose within Class A2 (financial and professional services) of that Schedule.
6. However, in this instance the upper floors of the property are already in residential use, being shown as a single dwelling in the 'Existing' plan submitted by the appellant. Class F only makes provision for a change of use from a use for any purpose within Class A1 or Class A2. There is no provision to change from any other use class or from a mixed use. Therefore, regardless of whether the existing residential accommodation is a use on its own (as the Council contends) or part of a mixed use that includes the dry cleaners on the ground floor, the proposed change of use is not development permitted under Class F. Accordingly, the appeal cannot succeed.

Conclusion

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

Peter Willows

INSPECTOR