



Officer Report

Application Number: HGY/2026/0642
Application Type: Lawful development: Existing use
Address: Ground Floor Flat 1, 164 West Green Road,
Tottenham, London, N15 5AE
Proposal: Certificate of lawfulness for existing use of property as
2no. flats on the ground floor level. (AMENDED
DESCRIPTION)
Case Officer: Daniel Boama
Valid Date: 15/04/202
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Applicant: Mr Hersch Sternlicht
Agent:

RECOMMENDATION

Refuse

1. PLANNING & ENFORCEMENT HISTORY

The relevant planning and enforcement history is as follows:

PLANNING CASES

HGY/2011/1535

Proposal: Use of property as 2 self-contained flats

Decision Date: 12 October 2011

Decision: Refuse

HGY/2011/2216

Proposal: Use of property as two self contained flats.

Decision Date: 28 December 2011

Decision: Approve with Conditions

ENFORCEMENT CASES

UNW/2021/00350

Enforcement Type: Change of Use - Flat Conversion

Description: Change of use of the ground floor flat to two flats. (c3)

Closed Date: 28 November 2025

ENF/2025/1089 (Address: Flat 2)

Enforcement Type: Change of Use - House in Multiple Occupation

Description: House in Multiple Occupation

2. REPRESENTATIONS

Planning Practice Guidance (PPG) on Lawful Development Certificates, sets out that:
“There is no statutory requirement to consult third parties. It may, however, be reasonable for a Local Planning Authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.” (Paragraph: 008 Reference ID: 17c-008-2014030).

No representations have been received.

3. RELEVANT PLANNING LEGISLATION

The application has been made under section 191 of the Town and Country Planning Act 1990 and relevant amendments. This is not a planning application but instead the applicant seeks confirmation that the proposed development is lawful.

Town and Country Planning Act 1990

Section 191 of the Town and Country Planning Act 1990 (as amended by section 10 of the Planning and Compensation Act 1991) states that:

“If any person wishes to ascertain whether any existing use of buildings or other land is lawful ...he may make an application for the purpose to the Local Planning Authority specifying the land and describing the use ... For the purposes of this Act uses ... are lawful at any time if –

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. If, on an application under this section, the Local Planning Authority are provided with information satisfying them of the lawfulness at the time of the application of the use, described in the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”

National Planning Practice Guidance (PPG)

National Planning Policy Guidance issued by the Government in relation to Lawful Development Certificates explains the process for obtaining a lawful development certificate for existing or proposed use.

In this case, the Local Planning Authority is requested to grant a certificate confirming that: “(a) an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990” Paragraph 001 Reference ID: 17c-001-20140306. Paragraph: 009 Reference ID: 17c-009-20140306 of the PPG indicates:

“A Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.”

As such, the impact of the proposed development on the neighbouring amenity or the character of the area cannot be taken into consideration for the purpose of this submission.

Paragraph: 006 Reference ID: 17c-006-20140306 of the PPG indicates: “The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a Local Planning Authority has no evidence itself, nor any 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, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”

4. EVALUATION

Section 191 of the Act indicates that the burden of proof lies with the applicant, but the relevant test is ‘the balance of probability’. Local Planning Authorities (LPAs) are advised that (unless the applicant’s evidence is imprecise or ambiguous, or the LPA has evidence of its own which contradicts or undermines the applicant’s version of events), a certificate should be issued.

In this case, a Certificate is sought on the grounds that the ground floor in the building outlined in red on the submitted plan have been used as 2no. flats for a continuous period of 4 or more years.

Applicant’s evidence

The application form accompanying this application asserts that the 2no. ground floor flats at 164 West Green Road, Tottenham, London, N15 5AE commenced on 03-01-2021.

The application is accompanied by the following evidence:

1. Metro Prepaid – Sub Meters for Tenants – Landlord Collection Statement May 2022
 - Flat 1A, Flat 1B, Unit 1, and Unit 2.
2. Golden Arrow – Tax Invoice – Building Control Services – 27 May 2021
3. Voltyx Ltd Tax Invoice for Sub meter supply and installation – Date 13 July 201
4. Supreme Lettings Ltd Invoice for Letting out Unit 1, 164a West Green Road – 16 August 2021
5. Supreme Lettings Ltd Invoice for Letting out Unit D, 164a West Green Road – 7 October 2021
6. Supreme Lettings Ltd Invoice for Letting out Unit B, 164a West Green Road – 11 November 2021
7. Gmail: Universal Credi Direct Payment Arrangement started dated 9 August 2021
 - Sent to Palmway Estates Ltd from Universal Credit
 - Confirmation of the application being approved and the payment being set up
8. Assured Shorthold Tenancy (AST) Agreement signed 31 May 2024
9. Metro Prepaid – Sub Meters for Tenants – Landlord Collection Statement June 2024
 - Flat 1A, Flat 1B, Unit 1, and Unit 2.
10. Email: Universal Credit Direct Payment Arrangement started dated 17 June 2024
 - Sent to Palmway Estates Ltd from Universal Credit
 - Confirmation of the application being approved and the payment being set up
11. Metro Prepaid – Sub Meters for Tenants – Landlord Collection Statement February 2025
 - Flat 1A, Flat 1B (x3 readings), Unit 1, and Unit 2.
12. Napit Electrical Installation Condition Report for Flat a
 - Date carried out 25/02/2025

13. Napit Electrical Installation Condition Report Flat b
 - Date carried out 25/02/2025
14. Assured Shorthold Tenancy (AST) Agreement signed 14 July 2025
15. Metro Prepaid – Sun Meters for Tenants – Landlord Collection Statement February 2026
 - Flat 1A (x3 readings), Flat 1B, Unit 1 (x2 readings), and Unit 2.
16. Energy Performance Certificate (EPC) – Unit 2 164a, Ground floor flat 18sqm – Valid until 15 July 2031
17. Energy Performance Certificate (EPC) – Unit 2 164b, Ground floor flat 18sqm – Valid until 15 July 2031
18. Energy Performance Certificate (EPC) – Unit 1 164b, Ground floor flat 18sqm – Valid until 15 July 2031
19. Energy Performance Certificate (EPC) – Unit 1 164a, Ground floor flat 18sqm – Valid until 15 July 2031
20. Metro Prepaid – Sub Meters for Tenants – Landlord Collection Statement June 2023
 - Flat 1A, Flat 1B, Unit 2, and Unit 1.
21. Agreement for an Assured Shorthold Tenancy dated 22/12/2021 for Unit D, 164a West Green Road.
22. Complete Building Control Ltd Final Certificate date 28/07/2025
23. Agreement for an Assured Shorthold Tenancy dated 20/07/2021 for Unit 1, 164a West Green Road.
24. Agreement for an Assured Shorthold Tenancy dated 08/10/2021 for Unit D, 164a West Green Road.
25. Agreement for an Assured Shorthold Tenancy dated 16/05/2022 for Flat 2, 164 West Green Road.
26. Barclays – Transactions for Palmway Estates Savings between 04/08/2021 and 02/04/2026
27. Barclays – Transactions for Palmway Estates Savings between 04/08/2021 and 10/04/2026
28. Barclays – Transactions for Palmway Estates Savings between 04/08/2021 and 02/04/2026
29. Email: Universal Credit Direct Payment Arrangement started dated 3 June 2022
 - Sent to Palmway Estates Ltd from Universal Credit
 - Confirmation of the application being approved and the payment being set up
30. Choice Let letter to DWP/Job Centre Representative - date of letter 02/07/2021
31. NIC EIC Domestic Electrical Installation Condition Report for top floor Flat dated 04/08/2021.

Other Supporting Documents

Location Plan

Ground floor plan - 164 West Green Road London N15 5AE (1)

- The plan shows 2 flats, both of which contain 2 bedsits (bedroom and ensuite shower room) that share 1 kitchen.

Assessment

Although the submitted Ground floor plan states that there are 2 flats, it also shows 2 bedsits within each flat that share a kitchen facilities, resulting in 4 bedsits in total. The submitted plan also shows that each bedsit has a separate entrance that be can accessed externally, which suggests that there are actually 4 units (However, those are not self-contained).

Conclusion

Given the above assessment, the officers are not satisfied that, on the balance of probabilities, the evidence submitted by the applicant precisely and unambiguously demonstrates that the use of Ground Floor Flat 1, 164 West Green Road, Tottenham, London, N15 5AE has not been as 2no. flats for a continuous period of 4 or more years before the date of this application, and has thus not become immune from enforcement action and therefore is unlawful.

5. RECOMMENDATION

Refuse the requested Certificate of Lawfulness under section 191 of Town and Country Planning Act 1990.

From the documentation and evidence provided, the Local Planning Authority is not satisfied that, on the balance of probabilities the use of Ground Floor Flat 1, 164 West Green Road, Tottenham, London, N15 5AE has been in use as 2no. flats for a continuous period of 4 or more years before the date of this application. Therefore, the sought use is considered to be unlawful.