



**TOWN AND COUNTY PLANNING ACT 1990 – SECTION 191
APPLICATION FOR CERTIFICATE OF LAWFULNESS OF EXISTING
USE OR DEVELOPMENT
USE AS A SINGLE SELF-CONTAINED DWELLINGHOUSE
1 QUEEN ELIZABETH WALK, BARNES, LONDON SW13 9SA**

**STATEMENT OF EVIDENCE TO VERIFY THE APPLICATION
JULY 2024**

1.0 Introduction

- 1.1 This statement of evidence to verify the application has been prepared in support of an application for a Certificate of Lawfulness of Existing Use or Development (LDC) made under section 191 of the Town and Country Planning Act 1990. The application is submitted on behalf of Mr and Mrs S Allpass, the freehold owners of the property.
- 1.2 The LDC application relates to the use of the building known as 1 Queen Elizabeth Walk, Barnes, London SW13 9SA as a single self-contained dwellinghouse. The application is made on the grounds that the use of this building as a single self-contained dwellinghouse commenced prior to 25 April 2024 and more than four years before the date of the application.
- 1.3 In preparing this application I have discussed the history of the building and its residential use with Mr Samuel Richard Allpass and have satisfied myself that it is lawful and that a LDC should be issued. Mr Allpass has owned the property since 1999. He has prepared statutory declarations in support of the application based on his own first-hand knowledge of the property. The property is currently let to a tenant, Mr David Hernando Padilla Vergara. He has also prepared his own statutory declaration relating to his period of occupation.

Background to the Application

- 2.1 No. 1 Queen Elizabeth Walk is situated on the southeast side near the five-way junction between Castlenau (A306), Queen Elizabeth Walk, Rock's Lane, Elm Grove Road and Church Road. It comprises a one-bedroom flat over a garage with external parking area and its own gated vehicular access from Queen Elizabeth Walk.
- 2.2 The building was constructed in late 2000 as a detached garage with accommodation above associated with Barn Elms Lodge which lies to the west. However, the evidence shows that since it was constructed it has been used as a separate self-contained dwellinghouse unrelated to the occupation of Barn Elms Lodge. The applicants would like to have formal confirmation of the lawful use of 1 Queen Elizabeth Walk as a self-contained dwellinghouse and hence this application is being made seeking a formal LDC.

3.0 Grounds for the Application

- 3.1 Section 171B (2) to the Town and Country Planning Act 1990, as amended by the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No.4 and Transitional Provisions) Regulations 2024, states that where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse which was substantially completed prior to 25 April 2024, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. In these situations, an application can be submitted under section 191 for a certificate to confirm the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition.
- 3.2 This application is therefore made on the grounds that the use of this building as a single self-contained dwelling commenced prior to 25 April 2024 and has continued for more than four years prior to the date of the application, i.e. before 7 July 2020 and is therefore immune from enforcement and lawful.

4.0 Evidence to Support the Application

4.1 The application seeks a LDC to confirm the lawfulness of the use of 1 Queen Elizabeth Walk as a single self-contained dwellinghouse. Statutory Declarations produced by Samuel Richard Allpass and David Hernando Padilla Vergara both dated 5 July 2024 are submitted in support of the application. These provide first-hand evidence include exhibits providing additional independent evidence to show that the property has been used as a single self-contained dwellinghouse continuously for at least four years prior to the date of the application.

4.2 The evidence is:

Statutory Declaration of Samuel Richard Allpass dated 5 July 2024

- (1) Mr Allpass purchased the property known as Barn Elms Lodge in 1999. Planning permission was granted on 14th June 2000 for the construction of a detached garage with accommodation above on the site. The building was constructed during the second-half of 2000 and included a bathroom and kitchenette and its own connections to mains water and foul drainage.
- (2) Mr Allpass affirms that during the period from 2000 to April 2018 the property was used as a self-contained studio flat by various tenants and friends whilst he, and from 2007 his wife, lived in Barn Elms Lodge. Mr Allpass explains that in April 2018 the main house of Barn Elms Lodge was sold but he retained the freehold of the property the subject of this application and it was given a separate title number TGL167289. Mr Allpass made a Street Naming and Numbering application to Richmond Council in respect of the property in March 2018 which was allocated the address 1 Queen Elizabeth Walk, Barnes, London SW13 9SA.
- (3) Between April and September 2018 Mr and Mrs Allpass lived in the property as their principle residence whilst extensive refurbishment works were being carried out at a newly purchased property at 21 Suffolk Road, Barnes, which they moved into in September 2018.

- (4) Mr Allpass explains that since he and his wife moved out in September 2018, he has employed Apparent Properties as managing agents to find tenants and manage the property. Mr Allpass provides independent evidence relating to Ms Isadora Wainwright and Josif Georgian Mezei occupied the property as tenants from November 2018 to June 2020. Subsequently Mr David Hernando Padilla Vergara moved into the Property as tenant on 19 June 2020, and he has remained in the Property since. Mr Allpass provides copies of the Tenancy Agreement and a series of Memorandum of Agreements extending the tenancy each year. He also provides a selection of statements of account received from his managing agents, Apparent Properties, and copies of the annual residential property insurances since 2019.
- (5) Mr Allpass affirms that the Property has been continuously and independently occupied for at least four years (actually for 23 years) prior to 25 April 2024 and it continues to be so occupied at the date of his Statutory Declaration (5 July 2024).

Statutory Declaration of David Hernando Padilla Vergara dated 5 July 2024

- (6) Mr Vergara states that he moved into the Property on 19 June 2020 and has lived there since. He confirms that it is only his only place of residence. He explains that it is completely self-contained with its own bathroom and kitchenette. He affirms that he has lived in the Property continuously and independently as a self-contained dwelling since 19 June 2020.

Other corroborating evidence

- (7) The statutory declaration of Mr Allpass explains how the Property was registered with its own postal address with the Council and Royal Mail in March 2018. The Google street view photographs at **Appendix A** to this statement and show that at some point between March 2018 and July 2019 new gates with a house sign clearly referring to number "1" were erected which is consistent with the postal address evidence.

- (8) The LDC application form requires information on any Energy Performance Certificate (EDC) for the Property. In this case the dwelling has its own separate EDC reference 8704-8405-9629-5427-4283. The extract of the EC at **Appendix B** shows that the relevant assessment of the dwelling was carried out on 19 February 2018.

5.0 Conclusion

- 5.1 The Courts have held that the relevant test of the evidence on such matters is "the balance of probability". The applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. 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, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".
- 5.2 The evidence provided by the statutory declarations of Samuel Richard Allpass and David Hernando Padilla Vergara and the associated exhibits is clear and consistent. These show that the Property has comprised a separate and self-contained dwellinghouse since it was constructed in late 2000. Specific evidence is provided in relation to the independent occupation of the Property by the applicants between April and September 2018, Ms Isadora Wainwright and Josif Georgian Mezei between November 2018 and June 2020, and Mr David Hernando Padilla Vergara since 19 June 2020.
- 5.3 The evidence in these statutory declarations is consistent with other independent evidence of Royal Mail address records, Google Street View photographs and Energy Performance Certificate records.
- 5.4 The submitted evidence demonstrates that the use of 1 Queen Elizabeth Walk as a single self-contained dwellinghouse began prior to 25 April 2024 and more than four years before the date of the application, i.e. before 7 July 2020. There is no known contrary evidence. It is therefore considered that an LDC should be issued. The originals of the statutory declaration and exhibits can be provided on

request. The applicant would be pleased to provide additional information or corroboration if required by the Council.

Paul Dickinson
BA (Hons) MRTPI MRICS MCMl
8 July 2024