
Appeal Decision

Site visit made on 19 February 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 1st May 2025

Appeal Ref: APP/D2320/X/24/3344382

Land off Washington Lane, Euxton, PR7 6SF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr David Wood and Mrs Pauline Wood against the decision of Chorley Borough Council.
 - The application ref: 23/00799/CLEUD, dated 21 September 2023, was refused by a notice dated 16 November 2023.
 - The application was made under section 191(1)(a) of the 1990 Act.
 - The use for which a LDC is sought is use of the building for recreational residential purposes and storage of residential equipment.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr David Wood and Mrs Pauline Wood against Chorley Borough Council. This application for costs is the subject of a separate decision.

Preliminary Matters

3. The description of the existing use for which a LDC is sought, in the banner heading above, is taken from the application form. That application form also states that the appellants consider that the relevant Use Class of the Town and Country Planning (Use Classes) Order 1987 (UCO) for that existing use is C3-Dwellinghouses. However, I noted at the site visit that the appeal site is surrounded by fields and there is no evidence before me to indicate that the appeal building has been or is in use as a dwellinghouse as defined within Class C3 of the UCO. Therefore, I consider that the reference to this Use Class is incorrect. I have dealt with the appeal on this basis.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

5. The burden of proof is with the appellants and the appropriate test of the evidence is the balance of probabilities. The onus is firmly on the appellants to show that the use of the building for recreational residential purposes and storage of

residential equipment was lawful at the time the application was made. A use is lawful under the provisions of section 191(2)(a) of the 1990 Act if no enforcement action may be taken in respect of it whether because it did not involve development or require planning permission or because the time for enforcement action has expired.

6. Paragraph 006¹ of the Lawful Development Certificates section of the Planning Practice Guidance (PPG) advises 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 probabilities.
7. There is a relatively small timber building with a metal clad roof, that has the appearance of a stable, located on a concreted area within the appeal site. The area surrounding that is mainly grass and there are trees/hedges around that grassed area. The appeal site also contains an area that leads from a field gate on Washington Lane to the field gate that provides access to the area around the building.
8. There is no evidence before me to indicate that the appellants consider that the use of the building for recreational residential purposes and storage of residential equipment did not involve development or require planning permission. As such, section 171B(3) of the 1990 Act says '*in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.*' The date of the LDC application is 21 September 2023 therefore the appellants need to show, on the balance of probabilities, that the use of the building for recreational residential purposes and storage of residential equipment began on or before 21 September 2013 and has continued thereafter for at least 10 years without significant interruption.
9. The evidence submitted by the appellants, before me, includes statutory declarations (SDs) from them both and 7 other individuals and several photographs. In the SDs from the appellants, it is stated that they bought the land in 1997 and in 2002 planning permission was granted for stables and the building was erected soon thereafter. They go on to state that the stable was occupied by a mature horse and her foal but both horses died within a few months of the building being completed. They both say that the building then acted as an extension to their bungalow where they kept furniture and effects, was used by family and friends and by Mr Wood as a workshop and a store for materials to take care of the land. They describe how it was used regularly during the summer months and often on Saturday evenings when the weather permitted, they would entertain friends and relatives by holding dinner parties. It is also said that birthday, anniversary and bonfire parties were held there, and their grandchildren would enjoy meals there and play outdoors.
10. The SDs from the 7 other individuals contain very similar wording to each other. They state that they have all known the appellants for many years that they have attended gatherings of family and friends at the building on numerous occasions during summer and winter, part of the building was used as a small workshop for

¹ Paragraph: 006 Reference ID: 17c-006-20140306

the storage of domestic tools and equipment by the appellants and that the building has been used continuously for this purpose since 2002 including the last 10 years albeit not as often due to covid and the advancing age of them and appellants.

11. Whilst the statements in the SDs have significant weight, they are generalised assertions with little detail attached to them. I acknowledge that due to the length of time that has lapsed that it may be unrealistic to expect absolute precision and a complete absence of any ambiguity with regard to the frequency and dates of the gatherings, dinner parties and recreational activities. Yet there is little supporting evidence, other than bonfire night, to describe what the gatherings or parties were celebrating. Those types of details I consider would be relatively easy to recollect given that they are likely to have been family birthdays, anniversaries or other specific events. Moreover, there is little detail on the frequency that the site was used for other recreational activities such as children playing games. There is also no evidence from other family members with regard to those activities.
12. A number of photographs were submitted with the appeal and the same photographs were submitted in support of a previous planning application². Typed dates are shown below each photograph. Those dates range from February 2002 through to 2013. The February 2002 photograph appears to show the stable partially constructed but the Council states within its Application Report that planning permission was granted in May 2002 for the building. Moreover, the appellants' SDs state that the building was erected shortly after planning permission was granted. Therefore, there is ambiguity over the date of this photograph.
13. The November 2002 photograph shows five people sitting around a table but there is little to indicate where the photograph was taken. The February 2003 photograph appears to be taken from in front of the building looking towards the converted agricultural buildings that front onto Whinney Lane. Several people standing next to a bonfire are shown in the November 2003 photograph. But as it has been taken at night there are no features to indicate where the photograph was taken.
14. Photographs dated Summer 2003 and 2004 show a table, laid out with a tablecloth, cutlery, wine glasses and serviettes, inside the building. However, despite the different dates associated with the photographs there is little to distinguish between them. Photographs dated 2005, 2006 and 2008 show people in the building and parts of a laid-out table are visible in the 2006 and 2008 ones. Despite the different dates one of the ladies in those photographs appears to be wearing the same clothing throughout and the appearance of the serviettes and other items on the table appears to be very similar to that in the Summer 2003 and 2004 photographs. As such, there is ambiguity as to whether these photographs show one or more than one gathering or party.
15. The June 2009 photographs show several people standing in front of the building and children playing on the grassed area. There are several photographs with a typed date of 2013 that show a marquee adjacent to the building and a party/gathering. Yet above the photographs themselves, which appear to be on a computer screen, is a date of 2011. As a result, there is ambiguity with respect to

² Ref No: 22/00085/OUT

the date of these photographs. Moreover, there is little corroborating evidence from the appellants to indicate what the party was celebrating that was held in the marquee and the building.

16. The photographs indicate that gatherings and parties have been held at the building and on the grassed area adjacent to the building. Nonetheless, even if there was no ambiguity in relation to their dates, the photographs only indicate that the building has been used occasionally for gatherings/parties and other recreational activities. They are therefore not determinative in relation to the frequency and continuity of the use of the building for recreational residential purposes.
17. Moreover, there are SDs from the owners/occupiers of the converted agricultural buildings which contradicts the appellants' evidence in relation to the use of the building for parties and gatherings. Those SDs state that they have lived at the properties since 1997 and 2002 respectively and that they have clear views of the appeal building. I acknowledge that trees and hedges that have been planted around the boundary of the grassed area would largely screen the building when the landscaping is in full leaf. Nevertheless, the February 2002 and 2003 photographs indicate that when the building was constructed clear views of the building from those properties were available. Furthermore, any attendees at the parties and gatherings would have been visible as they crossed the field/paddock from Washington Lane either in a vehicle or on foot. Those SDs dispute that gatherings and parties have been regularly held and indicate that only occasional ones have been witnessed by them. I note the correspondence in relation to a ditch, previous planning applications and sale of land. Yet, additional letters received in response to the LDC application indicate that another neighbour and other people walking along Washington Lane have also not witnessed parties/gatherings.
18. The evidence before me is ambiguous as to where the appellants' bungalow is located, in relation to the appeal building. I noted at the site visit that there is no bungalow close to the building but that there are bungalows on Washington Lane in the settlement of Euxton. Moreover, there is little evidence before me to indicate why the building was required to act as an extension to their bungalow especially given that their bungalow is not close to the building.
19. The building is divided into 2 rooms one significantly larger than the other. In the smaller room I noted that there are various pieces of machinery such as a lawnmower which could be used to maintain the areas around the building, a workbench and equipment that could be used for woodwork/DIY projects and other various items. In the larger room are tables and chairs, various electronic equipment and lighting and other domestic paraphernalia. There are pictures, photographs, maps and flags on the walls.
20. The maps and other items including the chandelier can be seen in the submitted photographs. However, as stated previously there is ambiguity in the dates of the photographs. Yet there is little evidence to contradict the appellants' statements and their 7 supporters within their SDs in respect of the use as a workshop for the storage of domestic tools and equipment. Additionally, most of the electronic equipment such as televisions appears to be of some age.

21. In my judgement, the evidence indicates that the grassed area around the building has been maintained by mowing and that the building has been used to store domestic paraphernalia and machinery used in that maintenance. The storage of that machinery and paraphernalia appears to have been the principal use of the building. It is unclear how the workshop was used other than for storage or when, over what time period, any use of the workshop, other than storage, took place. It is also more likely than not that the building and grassed area have been used occasionally for recreational activities and parties/gatherings. There is ambiguity over the frequency of the holding of those recreational activities and parties/gatherings and over what time period they occurred.
22. Taking into account all of the above, on the balance of probabilities, I conclude that it has not been shown with sufficient precision and unambiguity that the building has been used continuously for ten years or more without significant interruption for recreational residential purposes and storage of residential equipment. As with all LDC applications, it is open for fresh applications to be made if, for example, other evidence comes to light.

Conclusion

23. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for use of the building for recreational residential purposes and storage of residential equipment is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

D Boffin

INSPECTOR