



Appeal Decision

Site visit made on 14 June 2025

by **A U Ghafoor BSc (Hons) MA MRTPI FCI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2025

Appeal Ref: APP/J1535/X/23/3333844

Albany Stud Farm, Epping New Road, Buckhurst Hill Essex IG9 5UA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended ("the Act")) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Baljit Virk against the decision of the Council of the London Borough of Epping Forest.
- The application Ref EPF/1998/23, dated 1 September 2023, was refused by decision dated 1 November 2023.
- The application was made under section 191(1)(a) of the Act.
- The use for which a certificate of lawful use or development is sought is described in the appeal form as follows: "Existing use of a former security hut as a single self-contained dwellinghouse".

Decision

1. The appeal is dismissed.

Reasons

2. The onus of proof is firmly upon the appellant whose own evidence does not need to be corroborated by independent evidence to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous on the balance of probability.
3. The security hut is a former agricultural building that was part of a planning unit in agricultural use. It has a separate gated access and shared driveway, and a defined area around and about the building. Essentially, the appellant seeks a LDC on the basis that the existing use as a self-contained dwellinghouse is lawful due to the passage of time. The claim is that the security hut forms a physically and functionally separate planning unit in residential use. The appellant argues that the existing use began on 24 August 2019, which is before the relevant date - 1 September 2019, and continued thereafter for a period of 4 years without significant interruption¹.
4. The Council, on the other hand, refused the LDC on the sole basis the existing use has not continued for a period of 4 years. The parties appear to focus on evidence demonstrating use as a single dwellinghouse, but, for the following reasons, I find the approach adopted by them both to be incorrect.

¹ Applying s171B(2) of the Act.

5. The distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day domestic existence². It is necessary to consider evidence showing when the security hut became a single dwelling and when/how it was occupied and used as a single dwellinghouse without significant interruption [my emphasis].
6. Turning first to the evidence about when the security hut became a dwelling, the sworn testimony is that on purchasing the farm, the need for round-the-clock security presence was identified. The claim is that the appeal building, being vacant and not serving any specific purpose, was best placed to use as a security hut. Closed-circuit television system was installed in August 2018 and, about a year later, the appellant explains further improvements were made to the structure. However, there is a lack of precise explanation as to the nature and scale of the operations involved in the physical conversion work nor are there any precise explanations as to when the work began and substantially completed. The sworn testimony is lacking in detail as it does not specify sequence of the work, timings, and who carried out the conversion. The lack of precise detail affects the weight I attach to the statutory declaration.
7. The submitted documentary evidence in support of the appellant's claims is also vague and ambiguous because it does not show independent living accommodation was available from 24 August 2019. The UK Power Networks correspondence, dated 25 May 2018, is a quotation for the supply of electricity to the property: it does not show the kind of electrical work done in the appeal building.
8. In a similar vein, CITI Services carried out work comprising the digging out of a trench for the water supply in the middle of a field, but it is unclear when and how a dedicated water supply was connected to the security hut. The undated bill from P&J Renovations simply says they fitted a bathroom and disconnected a light from the fuse box. The City Plumbing London Ltd invoice shows washroom fittings were purchased in April 2019, but these could have been used anywhere and, in any event, some kind of water and washing facility would have been needed given the desire for round-the-clock security presence. To me, the quantum of evidence presented is lacking in specificity and it is wholly ambiguous. I attach limited weight to the documents because they do not clearly show the nature of the physical work involved in the conversion of the appeal building into a dwelling.
9. Pulling all the above threads together and having considered all the evidence now available, I find that the appellant has not clearly and unambiguously shown when the security hut became a dwelling. My findings are sufficient to conclude the appeal fails. For completeness, I have also reviewed the evidence about occupation and use.
10. Tenancy agreements do not necessarily demonstrate use as a dwellinghouse. Nevertheless, the submitted assured shorthold tenancy agreement is incomplete because in section B, there is no date given as to when the agreement was made. The term commenced 24 August 2019 but ended on 23 February 2020 and only covers about 7 months. Even if tenancy agreements were submitted, as I have already said elsewhere, they do not show the nature or scale of the residential use.
11. Similarly, all the E-On electricity bills are unspecific in that they do not demonstrate usage of the security hut as a dwelling nor are they addressed to the hut, although I

² See the case of *Gravesham BC v SSE and O'Brien*, [1983] JPL 306.

acknowledge the appellant's various companies. The appellant explains the reason why the Council Tax bills are registered in his name, yet the tenant was responsible for payment. Nonetheless, this information, absence any other corroboratory evidence, does not sufficiently show use of the security hut as a single dwellinghouse.

12. Even if a different view prevails on my findings about when the appeal building was capable of affording facilities for day-to-day domestic existence, I consider that the quantum of the evidence presented about occupation and use is incomplete, lacking in specificity and detail. My decision is likely to be disappointing, but I must determine the appeal based on the written submissions and my analysis and evaluation of the evidence before me. There is insufficient evidence to substantiate the appellant's claims. As the Planning Practice Guidance says at paragraph: 009 Reference ID: 17c-009-20140306, a refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented.

Conclusion

13. Drawing all the above threads together, I find that evidence submitted does not clearly or unambiguously show that the security hut became a dwelling on or before the relevant date and continued in use as a single dwellinghouse for a period of 4-years without significant interruption. Although I have analysed and evaluated all the evidence in the light of the correct legal tests, for the reasons given above, I find the Council's decision to refuse to grant the LDC in respect of the existing use was well-founded.
14. For all the above reasons, I conclude that the appeal should fail. I exercise accordingly the powers transferred to me in section 195(3) of the Act.

A U Ghafoor

INSPECTOR