



Appeal Decision

No site visit made

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2025

Appeal Ref: APP/K0235/X/24/3343748

26A Northfield Road, Wyboston, Bedford, MK44 3AZ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs Dean against the decision of Bedford Borough Council.
- The application ref 23/02546/LDE, dated 16 November 2023, was refused by notice dated 26 February 2024.
- The application was made under section 191(2)(a) of the Town and Country Planning Act 1990 (as amended).
- The use for which a certificate of lawful use or development is sought is described as use as an independent residential dwelling.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Preliminary Matters

2. The description of development is taken from the appeal form, as neither the application form nor the decision notice contains a reference to the development being sought under the LDC application. The description of development included in the heading above accurately reflects the scope of the development which was submitted and determined by the Council and is now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon the appeal form description for the purposes of the heading above and the LDC attached to this decision.
3. In an LDC application, the onus of proof is firmly upon the appellant to demonstrate that, on the balance of probabilities¹, the use subject of the application is lawful for the purposes of section 191 of the Town and Country Planning Act 1990 (the 1990 Act). A use is lawful under the provisions of section 191(2)(a) of the 1990 Act if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired.
4. The Planning Practice Guidance (PPG) states the appellant's own evidence does not need to be corroborated by independent evidence in order 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 dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous².

¹ Thrasyvoulou v SSE & Hackney LBC (No 1) [1984] JPL 732

² Lawful Development Certificates Paragraph: 006 Reference ID: 17c-006-20140306

5. The Council comments that further evidence has been submitted as part of the appeal that was not provided with the application. It is open to me to consider any such evidence because section 195(2) of the 1990 Act refers to the 'refusal' being well-founded, which means the Local Planning Authority's decision, not the reasons for the decision. I have, therefore, taken account of the further evidence.
6. The provisions of the Levelling Up and Regeneration Act, which came into effect on 25 April 2024, mean all unauthorised uses are subject to the ten year bar. However, as the application, in this instance, was made on 16 November 2023, the four year bar still applies for unauthorised residential uses. To demonstrate immunity from planning control, the applicant must therefore show that the use has continued on an uninterrupted basis for at least four years from the date of when the LDC application was made. Accordingly, the material date here is 16 November 2019.

Main Issue

7. With reference to the above the main issue, therefore, is whether the Council's refusal to grant an LDC for the claimed use was well-founded.

Reasons

8. The appellants purchased the property in 2013, which included the outbuilding subject to this appeal. The appeal site relates to a converted outbuilding to the rear of 26 Northfield Road which the appellant claims has been used as a separate residence for over 4 years. From the photos before me, there is a clearly defined area around the outbuilding, adjoining the access road, showing the outbuilding is separate to the main house.
9. The applicant has produced a sworn statutory declaration (SD) highlighting that the barn was converted in late 2013, and a gas safety record certificate dated October 2013 which was provided upon its completion. There are also SDs submitted by Colin Holt and David Lancaster both trades people employed by the appellant in 2013 to undertake the works at the appeal site to convert it to a dwellinghouse. This is not disputed by the Council, and consequently, I accept this evidence in this regard.
10. Additional evidence has also been supplied at the appeal stage in the form of SDs from family members Heather Dean (the appellants wife); George Lewis (the appellants son in law) and Simon Kruger (a neighbour) stating that the appeal site was converted into a dwellinghouse in 2013 and was tenanted from April 2014. While these SDs were made by people not resident at the site, and are lacking in some detail, they are unambiguous nonetheless.
11. From the information before me in the form of the SDs and the Assured Shorthold Tenancy Agreements (ASTs) the appeal site was occupied by the following:
 - Daniel Fanconi between April 2014 until November 2016
 - Imogen Ranasinghe between December 2016 and May 2018
 - Paul Davies between June 2018 and January 2022
 - The current occupier David Lancaster since February 2022

12. The SDs indicate that the rent payments shown on the ASTs were inclusive of utilities. Ideally copies of utility bills showing that the appeal site was supplied with separate services might have provided additional assistance in verifying the appellant's claim. However, having regard to the evidence already made available, the absence of details concerning utilities and services does not create any significant uncertainty over the use of the outbuilding as a separate dwelling for the relevant period. There is no requirement for copies of utility bills or other records to be provided to support an LDC application. Moreover, it is well-established that an appellant's evidence should not be rejected simply because it is not corroborated by independent evidence.
13. In this or any other respect, there is no sound reason which would lead me to believe that the appellant's documentary evidence is not authentic. Therefore, in the absence of any sound reasons which might suggest otherwise, the appellant's evidence should be afforded considerable weight.
14. The Council highlight that the ASTs contain limited times in respect to the terms offered, 6 months in some cases and no term set out in others³, thus cannot be relied on to substantiate the appellants' claim in respect to a continuous 4 year tenancy period. However, in my experience, it is not uncommon on the expiry of short term lets, if the tenant remains at the property, that ASTs continue as a periodic monthly contractual tenancy, usually with either party providing one month's notice should they wish it to end.
15. The submitted Council Tax record 2023/2024 shows that a "Long term empty premium" had been applied to the appeal site. This premium is charged where a property has been unoccupied and substantially unfurnished for two years or more. The premium could therefore indicate that the appeal site had been unoccupied since at least April 2021. This would contradict the evidence supplied in respect to Paul Davies and David Lancasters ASTs.
16. Even if, this were the case the burden of proof is on the balance of probabilities, not beyond all reasonable doubt. Based on the SDs, ASTs and other information submitted by the appellant and lack of evidence to the contrary, I must conclude that the outbuilding has been occupied continuously as an independent, self-contained residential unit since at least 16 November 2019. Accordingly, the appellant has therefore discharged the burden of proof.

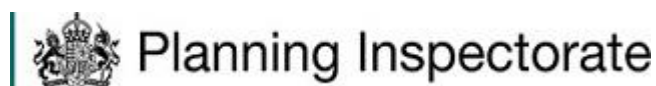
Conclusion

17. For the reasons given above, I conclude on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for use of a building as a dwellinghouse is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Robert Naylor

INSPECTOR

³ ASTs signed by Daniel Fanconi, Paul Davies and David Lancaster



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 16 November 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The appellant has demonstrated their case on the balance of probabilities that the use of the building as a dwellinghouse has been continuously occupied for a period of more than 4 years.

Signed

Robert Naylor

Inspector

Date: 14 July 2025

Reference: APP/K0235/X/24/3343748

First Schedule

Use as an independent residential dwelling.

Second Schedule

26A Northfield Road, Wyboston, Bedford, MK44 3AZ

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 14 July 2025

by Robert Naylor

Land at: 26A Northfield Road, Wyboston, Bedford, MK44 3AZ

Reference: APP/K0235/X/24/3343748

Scale: Not to Scale

