



Appeal Decisions

Site visit made on 1 July 2025

by **Nick Fagan BSc (Hons), DipTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 July 2025

Appeal A Ref: APP/L3815/X/24/3338633

Appeal B Ref: APP/L3815/X/24/3338638

Appeal C Ref: APP/L3815/W/24/3340909

Appeal D Ref: APP/L3815/X/24/3347593

Appeal E Ref: APP/L3815/X/24/3347595

Appeal F Ref: APP/L3815/W/24/3347603

**The Forge, Land to the north of the Coach House at Manor Copse Farm,
Oak Lane, Shillinglee, Plaistow, West Sussex GU8 4SQ**

- The appeals are made under Sections 195 and 78 of the Town and Country Planning Act 1990 (as amended) against, respectively, refusals to grant a certificate of lawful use or development (LDC) (marked with 'X' refs above) and refusals to grant planning permission (marked with 'W' refs above).
 - The appeals are all made by Mr Paul Hayward against the decision of Chichester District Council.
 - I address the details of each appeal below.
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Decisions

1. All the appeals are dismissed.

Preliminary Matters

2. There were initially two additional appeals linked to the above appeals (refs ending 24/X/3342178 & 24/X/3358707). These appeals were withdrawn on 4 July 2025 in view of the fact that both appeals were applications for lawful existing development (erection) of The Forge – the timber building situated to the north of the appellant's house (the Coach House) – because subsequent to these appeals the Council granted a S191 LDC for the development of this building¹, which negated the need for them.
3. Appeal A is in respect of a Section 192 application to rebuild The Forge to the same dimensions as it currently is. Appeal B is in respect of a S191 application for the use of the land north of the Coach House including The Forge itself for private amenity, storage and business use. Appeal C is under S78 in respect of a planning application for demolition of The Forge and erection of a new building of the same dimensions. Appeal D is in respect of a S191 application for the use of The Forge for private amenity, storage and business use. Appeal E is in respect of a subsequent S191 application identical to the LDC in Appeal B. Appeal F is under S78 in respect of a planning application that appears to be for the demolition of The Forge and its rebuilding on the site of another building situated approximately 50m southeast of The Forge – the building dismissed on appeal on 17 May 2023², formerly used as a pottery. It is unclear why the appellant submitted the second

¹ LPA Ref PS/25/00643/ELD granted 14 May 2025

² APP/L2815/C/21/3283324 & 3283325

subsequent S191 addressed by Appeal E when the first one (under Appeal B) had already been refused and appealed.

4. In respect of the LDC appeals, the onus is firmly on the appellant to prove that the use applied for is lawful. The relevant test of the evidence is on the balance of probability. If the Council does not have any evidence to contradict the appellant's evidence, or make his version of events less than probable, there should be no reason to refuse the application for the LDC. The appellant's arguments should, however, be sufficiently precise and unambiguous to justify a grant of a LDC.

Reasons

Appeal A (LPA Ref PS/23/02738/PLD dated 4/12/23, refused by notice dated 30/1/24)

5. The Council's reason for refusing this S192 application was that there was insufficient information provided to show that the land or the building known as The Forge (the timber shed) has a lawful sui generis mixed use including private amenity, storage and commercial nor that the land is lawful garden curtilage land of the dwelling house known as the Coach House, where Mr Hayward currently lives.
6. The application under this appeal sought to rebuild The Forge with no increase in its size. However, to lawfully establish that the existing shed could be demolished and rebuilt to the same size depends on two matters: first, that its use for the above sui generis mixed use is lawful and second, that it lies within the residential curtilage of the Coach House.
7. The appellant claims, in his appeal statement, to have used 'the site' for multiple business purposes for the last 31 years. However, first, it is unclear what he means by 'the site'. Secondly, none of these uses included using the land in question in this appeal as a garden for his house. If the building (and land) was used for such a sui generis mixed use, it could not, by definition, have been used for domestic purposes. Furthermore, no substantive evidence of the described mixed use has been provided to demonstrate that such a use has existed for at least 10 years. The Google Earth aerial photographs do not show the precise uses of The Forge or the land on which it sits, simply because they are not sufficiently detailed in that they only provide distant views of the land.
8. In order for a new building of these dimensions to be permitted development (and not therefore require planning permission to erect it), it would have to be a building incidental solely to the enjoyment of a dwellinghouse located within the curtilage of that dwellinghouse³. But it clearly isn't. The curtilage of the Coach House does not appear to extend any further than the tall tree/hedge line just to the south of The Forge building, which appears to divide its curtilage from the predominantly business-orientated uses to the north of it, including where the lorry body and dumper truck, jeep etc were located on my site visit. The timber building itself, whilst it may contain items of domestic storage, appears mainly to contain items associated with Mr Hayward's construction business.
9. For these reasons, the appeal must fail.

³ Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015

Appeal B (LPA Ref PS/23/02682/ELD dated 5/12/23, refused by notice dated 30/1/24)

10. This was a S191 application alleging the lawful use of the land north of the Coach House including The Forge itself for private amenity, storage and business use. The appellant's submissions are the same as for Appeal A: essentially the same appeal statement and the same distant Google Earth aerial photos taken in 2012, 2013, 2017, 2018, 2020 and 2021.
11. As I have stated above, no substantive evidence of the described mixed use has been provided by the appellant to demonstrate that such a use has existed for at least 10 years. The Google Earth aerial photographs do not show the precise uses of The Forge or the land on which it sits, simply because they are not sufficiently detailed in that they only provide distant views of the land.
12. The onus is on the appellant to do so, which he has not done. Therefore, on the balance of probability, his evidence is not sufficiently precise or unambiguous to demonstrate that this mixed use has endured for any 10-year period prior to the date of this LDC application. Consequently, this appeal must fail.

Appeal C (LPA Ref PS/23/02745/FUL dated 4/12/23, refused 27/2/24)

13. This appeal is under S78 in respect of a planning application for demolition of the existing outbuilding and erection of a new one of the same dimensions. The Council refused the application on the basis that the site lies outside any settlement boundary and that the erection of a new building of the same size as The Forge does not require such a countryside location, and conflicts with Policies 1, 2 and 45 of the Chichester Local Plan 2014-2029 (LP) and with sections 12 and 15 of the National Planning Policy Framework (NPPF).
14. The appellant claims that these arguments and planning policies do not apply to the rebuilding of an existing lawful building. I disagree. Although there is now a S191 LDC for the erection of the existing timber building, I have explained above why a new building for the mixed use of private amenity, storage and business use would be unlawful. Planning permission is required for a new building to be used for these purposes. The above policies are the relevant policies, and the proposal fails to comply with these adopted policies in the development plan and the NPPF.
15. No reasons or relevant material considerations have been put forward by the appellant by way of argument as to why such policies should not be applied in this case. The LP policies restrict development in the countryside outside of settlement boundaries to that which requires a countryside location or meets an essential local rural need or supports rural diversification. In particular, Policy 45 allows such development. It is undisputed that the proposed development here does not need to be located in the countryside and does not meet an essential local rural need. Consequently, it is unacceptable, and the appeal should be dismissed.

Appeal D (LPA Ref PS/24/00306/ELD dated 7/3/24, refused by notice dated 2/5/24)

16. This appeal is in respect of a S191 application for the use of the outbuilding, The Forge, for private amenity, storage and business use. Again, the appellant's submissions rely on essentially the same appeal statement and the same insubstantial Google Earth aerial photos, which do not show at all the interior of the building.

17. Again, no substantive evidence of the above-described mixed use has been provided by the appellant to demonstrate that such a use has existed for at least 10 years. Therefore, on the balance of probability, the appellant's evidence is not sufficiently precise or unambiguous to demonstrate that this mixed use has endured for any 10-year period prior to the date of this LDC application. Consequently, the appeal fails.

Appeal E (LPA Ref PS/24/00321/ELD dated 27/2/24, refused by notice dated 29/4/24)

18. This appeal is in respect of a subsequent S191 application identical to the LDC in Appeal B. I repeat what I have stated above in respect of that appeal, because the appellant relies on the same evidence.
19. No substantive evidence of the use of land for private amenity, storage and business use has been provided by the appellant to demonstrate that such a use has existed for at least 10 years. The Google Earth aerial photographs do not show the precise uses of The Forge or the land on which it sits, simply because they are not sufficiently detailed in that they only provide distant views of the land.
20. The onus is on the appellant to do so, which he has not done. Therefore, on the balance of probability, his evidence is not sufficiently precise or unambiguous to demonstrate that this mixed use has endured for any 10-year period prior to the date of this LDC application. Consequently, like Appeal B, this appeal must also fail.

Appeal F (LPA Ref 23/02743/FUL dated 4/12/23 refused 14/2/24)

21. This appeal is under S78 and appears to be in respect of a planning application for the demolition of The Forge and its rebuilding on the site of the other existing building situated on this land to the north of the Coach House located approximately 50m southeast of The Forge – this is the building dismissed on appeal on 17 May 2023, last used as a pottery studio. Those two linked appeals were against the Council's enforcement notice, numbered PS/70, issued on 25 August 2021, which required the demolition of this building. Those appeals were dismissed but my site visit revealed that this building is still there, so the upheld notice has not been complied with.
22. Although it is slightly unclear whether this application is applying for the demolition of both buildings and the rebuilding of The Forge on the site of the ex-pottery building or simply the demolition and rebuilding of the latter, it is clear that the use of this building is sought for a mixed use of storage, commercial, private amenity and light industrial (a sui generis mixed use). Neither The Forge nor the ex-pottery building has a lawful use for such a mixed use, and neither does the land on which both buildings sit.
23. However, I can only repeat here what I have already said about the rebuilding of The Forge on its present location in Appeal C above. Although there is now a S191 LDC for the erection of the existing timber building (The Forge), I have explained above why a new building for the above sui generis mixed use would be unlawful. Planning permission is required for a new building to be used for these purposes. LP Policies 1, 2 and 45 are the relevant development policies, and the proposal fails to comply with these adopted policies and the NPPF.

24. No reasons or relevant material considerations have been put forward by the appellant by way of argument as to why such policies should not be applied in this case. The LP policies restrict development in the countryside outside of settlement boundaries to that which requires a countryside location or meets an essential local rural need or supports rural diversification. In particular, Policy 45 allows such development. It is undisputed that the proposed development here does not need to be located in the countryside and does not meet an essential local rural need. Consequently, it is unacceptable, and the appeal should be dismissed.

Conclusion

25. For the reasons given above, I conclude that the Council's refusal to grant certificates of lawful use or development for the development/uses in Appeals A, B, D and E (the LDC appeals) is well-founded and that these appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended). The Council's refusals to grant planning permission in respect of Appeals C and F (the planning appeals) are in accordance with the development plan and there are no material considerations raised that indicate I should make a decision other than in accordance with it.

Nick Fagan

INSPECTOR