



Appeal Decision

Site visit made on 2 September 2025

by **Sarah Dyer BA BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th September 2025

Appeal Ref: APP/X1545/X/23/3326609

The Cabin, Green Lane, Burnham-on-Crouch CM0 8PX

- 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 Victoria Land against the decision of Maldon District Council.
 - The application ref LDE/MAL/23/00033, dated 13 January 2023, was refused by notice dated 16 June 2023.
 - The application was made under section 191(1)(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 use of the property as a private dwellinghouse (and its associated curtilage).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant refers to a previous application for an LDC which was determined on 11 May 2020, in a letter which she has submitted dated 13 May 2024. She notes that it has been four years since that decision was made. She considers that as the property has remained in continuous use as a dwelling since that previous decision was made, and that four years have elapsed, the use as a dwelling is now lawful. However, the appeal before me relates to the application made on 13 January 2023 and seeks to establish the lawfulness of the existing use on that date. In order to establish lawfulness in respect of the use of the building on 13 May 2024 the appellant would have to make another application to the Council and provide evidence to support that claim.
3. Reference has been made, by an interested party, to the suitability of access to the site, impacts on local services, and the potential for further development and the precedent for similar development in the area. For the avoidance of doubt, the planning merits of the existing use are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 (the Act), as amended, which relates to an application for a Certificate of Lawful Use (LDC). My decision rests on the facts of the case and on relevant planning law and judicial authority. The onus is on the appellant to make out her case to the standard of the balance of probabilities.
4. The application site location plan identifies an L-shaped area wrapping around land associated with a dwelling marked as 'Thatched Cottage'. The Cabin is located in the corner of the site together with its amenity space. There are two hatched areas within the application site boundary. The red hatched area identifies the current separate drive/access which serves The Cabin and is annotated 'use of

separate drive/access 2020- present'. The black hatched area is annotated 'use of shared drive/access 2006-2020' and it is shown as also serving Thatched Cottage.

5. The application site plan which forms part of the appellant's evidence identifies the application site as The Cabin and its amenity space, only, as the area for which an LDC is sought. This differs from the application site plan which was submitted with the LDC application which is unclear in respect of whether or not the hatched areas are included. The plan which forms part of the evidence is, however, clear in this respect and the evidence which has been submitted focuses on The Cabin and its amenity space. Consequently, I have adopted the same approach in my consideration of the appeal and have not regarded the hatched areas as forming part of the application/appeal site.

Main Issue

6. The main issue is whether or not the Council's decision to refuse the application was well-founded.

Reasons

7. The appellant seeks to establish that the use of the property as a private dwellinghouse (and its associated curtilage) is lawful. The Act establishes that uses are lawful at any time if no enforcement action may then be taken in respect of them. The appellant is not seeking to establish that the use of the appeal site does not involve development nor that it does not require planning permission. Her contention is that the time for enforcement action has expired.
8. In this case, where the alleged change of use took place before 25 April 2024, the development would be immune from enforcement if no action was taken within four years of the unauthorised change of use to a single dwellinghouse. Therefore, the appellant needs to show that the appeal building changed to the use described in her application on or before 13 January 2019 (that being four years prior to the date of the LDC application) and that the use as an independent dwelling then continued for at least four years after the date of the change, without any substantial interruption.
9. The appellant has submitted her own Statutory Declaration (SD) and five other SDs. Within the SDs there is reference to the Statutory Declarations Act 1835 and a declaration that the contents are true and all have been witnessed.
10. The appellant has also submitted two letters of support. There is no reference to the Statutory Declarations Act 1835 or sanctions in respect of telling the truth in these letters. Therefore, they do not have the same status as the SDs.

The Appellant's SD and exhibits dated 13 January 2023

11. The appellant says she moved into Thatched Cottage in 2006 with her family. She states that the appeal building was included in the grounds and shortly after they moved in, being 2006/7, it was converted to additional accommodation for her elder daughter to live in and use. I shall refer to the converted building as 'The Cabin'.
12. The appellant refers to Thatched Cottage being a small two-bedroom property. She states that when she moved in, she had two adult children and needed more living and sleeping space; this appears to be the motivation to convert The Cabin.

13. The Cabin had water and electricity provided by using the existing supplies serving Thatched Cottage. Heating was in the form of a log burner and electric heaters and there was an electric water heater. It had a full bathroom and kitchen including a washing machine. The appellant says that following its conversion The Cabin had all the ordinary facilities which would be expected to be provided in a 'normal' house. She states that her daughter lived in The Cabin from 2006/7 to 2010.
14. Google Street View images are provided which the appellant considers show that The Cabin looked like a dwelling in 2009.
15. The appellant's elder daughter moved out of The Cabin in November 2010 and the appellant's younger daughter moved in (Witness 1). Although the appellant says that both daughters occupied The Cabin in the same way i.e. sleeping, cooking, eating, washing and relaxing, for personal reasons she says that after 2012 Witness 1 would spend time with her in Thatched Cottage having dinner and watching television.
16. The appellant states that Witness 1 lived by herself in The Cabin between November 2010 and October 2013. Witness 1 was then joined by her partner (Witness 2), and they lived at The Cabin until November 2017. The appellant entered into a tenancy agreement with Witness 2, and she has provided a copy. The Tenancy Agreement is signed and has been witnessed by Witness 1.
17. The Tenancy Agreement sets out a monthly rent and the appellant states that this was paid to her along with a payment for satellite television.
18. The appellant has provided a copy of a bank statement dated 14 October 2015 to 14 January 2016 which show rental payments and satellite television payments in October 2015, November 2015 and December 2015, consistent with the amounts specified by the appellant. She states that this is a copy of her bank statement. However, the bank statement is in the name of Witness 2. The rent and satellite television payments are made to someone with the same first name as the appellant but a different surname.
19. A copy of the notice, dated 28 August 2017, which Witness 2 gave the appellant when he moved out of The Cabin is provided. This states an intention to move out on 1 October 2017, but the appellant believes he moved out on 1 November 2017 as this would be consistent with a two month notice period.
20. In late 2017 the appellant says that works were carried out including a new tiled roof and extension and the internal layout of The Cabin was altered. A series of Google Earth images have been provided dated from 2000 to 2022 which the appellant says show The Cabin. She points out that the extension was erected in 2017 which shows up on the 2018 image and thereafter.
21. Once the works were completed the appellant says that her son (Witness 3) and his partner (Witness 4) moved into The Cabin. The appellant says that they lived there from 14 December 2017 to 20 April 2020. During that time the appellant did not charge rent and paid for utilities, but she says that Witness 3 and Witness 4 lived independently in The Cabin.
22. Further work was carried out during 2020 including redecoration and the installation of separate utilities and a telephone line. The appellant has provided

letters and invoices relating to some of these works dated between April 2020 and October 2020.

23. Once the redecoration was completed the appellant states that a tenant moved into The Cabin (Witness 5). Copies of three Tenancy Agreements are provided dated 22 May 2020, 22 May 2021 and 30 June 2022. The Tenancy Agreement for 2020 is signed by the appellant and Witness 5 and witnessed by the appellant's partner (Witness 6). The Tenancy Agreements for 2021 and 2022 are not signed. Witness 5 was responsible for paying utility bills and Council Tax.
24. The appellant has provided a bank statement which she states show payments from Witness 5 into her account. The payments from May 2020 to 30 November 2021 are clear. The payments from November 2021 to September 2022 are less clear as they show other transactions, but they do include payments into the account from Witness 5. The figures are generally consistent with the monthly rent set out in the Tenancy Agreements.
25. The appellant has provided copies of utility bills and a Council Tax demand addressed to Witness 5. A copy of a letter from HM Revenue and Customs addressed to Witness 5 is also submitted which relates to a tax code.
26. In 2020 the appellant moved out of Thatched Cottage. She states that as she intended to rent out Thatched Cottage a fence was erected around the amenity area associated with The Cabin so that it was clear which outdoor area was in use/associated with each dwelling. She later created a separate access for The Cabin so that both tenants no longer needed to share the access/driveway.
27. Witness 5 moved out of The Cabin on 30 November 2022. The appellant states that another tenant is to move in on 1 February 2023. The appellant says the intervening time has been spent cleaning The Cabin. A copy of the Tenancy Agreement has been submitted which has been signed by the appellant and the tenant witnessed by Witness 6 and another person.
28. The appellant has provided a copy of a letter from the tenant of Thatched Cottage dated 23 January 2023 which confirms that she has rented Thatched Cottage since 30 June 2020. She also confirms that The Cabin has been occupied completely independently from Thatched Cottage.
29. The appellant provides photographs of the interior and exterior of The Cabin including the access/driveway.

Witness 1 - SD and exhibits dated 12 January 2023

30. Witness 1 is a daughter of the appellant. She states that The Cabin was her full-time permanent residence from November 2010 to November 2017. She says she lived alone until October 2013 and thereafter she and Witness 2 lived in The Cabin together.
31. Witness 1 did not pay rent to the appellant while she lived in The Cabin alone but when Witness 2 moved in, she recalls that there was a tenancy agreement between him and the appellant and that he paid the rent and the satellite television payments.

32. Witness 1 says that she and Witness 2 had everything they required for independent living. She says that there were regular deliveries to The Cabin, for example groceries.
33. Witness 1 refers to photographs which she says were taken while she and Witness 2 lived at The Cabin. The file information on some of the photographs shows that they were taken on a range of dates between April 2013 and June 2017. One photo shows Witness 1 and Witness 2 in The Cabin.
34. Witness 1 states that she and Witness 2 moved out of The Cabin in November 2017. She recalls that the appellant and her partner undertook refurbishment works and that soon after her brother and his partner moved in. She says that her brother and his partner lived at The Cabin for several years and then a new tenant moved in who lived there 'until recently'.
35. Witness 1 states that it is her understanding that since she and Witness 2 moved out of The Cabin it has continued to be occupied by various individuals as an independent dwelling.

Witness 2 - SD and exhibits dated 12 January 2023.

36. Witness 2 is Witness 1's partner, and the appellant was his landlady. He says that he occupied The Cabin as his full-time permanent residence from 1 October 2013 to 1 November 2017 and that Witness 1 was already living there when he moved in.
37. Witness 2 says he entered into a Tenancy Agreement with the appellant, that there was a monthly rent and that he paid the appellant separately for satellite television. He confirms that the Tenancy Agreement and the copy of the notice letter provided by the appellant were both signed by him. He also confirms that the photographs provided by Witness 1 show The Cabin.
38. Witness 2 says that there was a 'full array of services' and that he and Witness 1 lived in The Cabin independently. He says that after they moved out some refurbishment works were carried out, that the appellant's son and his partner moved in for a few years and that once the appellant's son moved out a new tenant moved in who lived there until recently.

Witness 3 - SD and exhibits dated 12 December 2023.

39. Witness 3 is a son of the appellant. He says that he occupied The Cabin as his full-time permanent residence from 14 December 2017 to 20 April 2020 with his partner (Witness 4).
40. Witness 3 states that he and Witness 4 were not charged rent, that they had 'very little to do' with his family and that they 'kept themselves to themselves' during the time that they lived in The Cabin. He says that The Cabin was a self-contained property, that it had everything necessary for independent living and that they had deliveries to The Cabin.
41. Witness 3 provides photographs which he says were taken on 9 January 2018, 23 January 2018, 18 June 2019 and 1 May 2020 and which show his and Witness 4's dogs. The dates correlate with the dates shown on the photographs with the exception of a photograph which shows him holding a dog which is dated 9 January 2018 not 9 January 2019 as stated.

42. Witness 3 says he understands that when he and Witness 4 moved out a new tenant moved in shortly after who has recently moved out and that a new tenant is moving in shortly.

Witness 4 - SD and exhibits dated 12 January 2023.

43. Witness 4 is the partner of Witness 3. She says that she occupied The Cabin as her full-time permanent residence from 14 December 2017 to 20 April 2020 with her partner (Witness 3).
44. Witness 4 says that she and Witness 3 did not pay rent and that The Cabin contained everything needed for them to live independently. She refers to The Cabin having its own access and front door with lock and key and to deliveries being made to The Cabin.
45. Witness 4 says that she and Witness 3 did not take many photographs during their occupation of The Cabin, but she confirms that the photographs provided by Witness 3 show their dogs inside The Cabin.
46. Witness 4 says she understands that when she and Witness 3 moved out, a new tenant moved in shortly after.

Witness 5 - SD and exhibits dated 16 January 2023.

47. Witness 5 states that the appellant was her landlady and that she paid a monthly rent for The Cabin and the use of the field next to it. She says that she occupied The Cabin as her full-time permanent residence from 23 May 2020 to 30 November 2022.
48. Witness 5 says that The Cabin had everything necessary for day-to-day independent living and that it had its own garden/amenity space. She states that The Cabin had its own water, gas and electricity meters and that she was responsible for meter readings and utility bills and Council Tax.
49. Witness 5 refers to The Cabin having an independent gate/driveway.
50. Witness 5 provides photographs which she states were taken during her occupation of The Cabin between 2020 and 2022. The photographs are not date stamped.
51. Witness 5 confirms that the letters submitted by the appellant from the utility companies, HM Revenue and Customs and regarding Council Tax were addressed to her and that they concern her occupation of The Cabin.

Witness 6 – letter of support dated 10 January 2023

52. Witness 6 says he has known the appellant and one of her daughters for 11 years as he used to deliver hay to The Cabin which was attached to the field where they kept their horses. He says he was aware that The Cabin was being lived in (Witness 1 and Witness 2) but it was clear that they were living independent lives.
53. Witness 6 states that he and the appellant started dating in 2016 and that Witness 1 and Witness 2 moved out of The Cabin on 1 November 2017. Witness 6 refers to refurbishment works being carried out after that time, in part by himself, before Witness 3 and Witness 4 moved in. He also refers to Witness 5 moving in when Witness 3 moved out.

54. Witness 6 states that as long as he has known the family The Cabin has been lived in independently.

Witness 7 – letter of support dated 1 January 2023

55. Witness 7 states that she moved into Thatched Cottage on 30 June 2020 and that The Cabin has been inhabited since then. She describes it as completely independent of Thatched Cottage. She also makes a number of observations about the merits of The Cabin which are not relevant to the appeal for the reasons that I have set out above.

Assessment of evidence of use of The Cabin as a private dwellinghouse and its associated curtilage

56. The application form for the LDC states that the use began on 1 November 2010. Whilst the appellant refers to The Cabin having all the ordinary facilities in a normal house and being occupied by one of her daughters from 2006/7, the date in the application form coincides with when her elder daughter (Witness 1) moved in. This is corroborated in Witness 1's SD.
57. Whilst the lack of payment of rent is not determinative there is very limited evidence to support the statements in the appellant's and Witness 1's SDs that Witness 1 lived independently from Thatched Cottage during the time when she lived in The Cabin on her own. The appellant observes that Thatched Cottage is small and the motivation for converting The Cabin appears to be to provide more space. The photographs provided show that The Cabin could have been used independently. However, given the close proximity to Thatched Cottage, the shared access and, to a limited extent the events which were occurring in their lives, in the absence of evidence to the contrary, it is reasonable to assume that there was a high degree of interaction between the appellant and Witness 1. These circumstances changed when Witness 2 moved into The Cabin in October 2013.
58. The Tenancy Agreement which Witness 2 entered into is fairly basic but it is signed and witnessed and the requirement to pay rent is clear. However, the bank statement provided by the appellant only covers part of the period when Witness 2 says he was paying rent, it is not clear whose bank statement it is nor who the rental payments were made to. Furthermore, whilst both Witness 1 and Witness 2 refer to deliveries being made to The Cabin there is no evidence of this, and their photos demonstrate the domestic use of the building but not that it was being used separately from Thatched Cottage.
59. The evidence from Witness 6 does not have the status of a SD. He recollects Witness 1 and Witness 2 living independently in The Cabin but does not provide the dates when he observed this, his interactions being during periodic visits from January 2012 (11 years prior to the date of his supporting letter) and more regularly from 2016. Whilst the evidence from Witness 6 covers the period during which Witness 1 and Witness 2 were occupying The Cabin it is partial and there is no evidence to substantiate his recollection or to explain why he reached the view that The Cabin was in use as a separate dwelling.
60. Although it is likely that Witness 1 and Witness 2 had less interaction with the appellant and lived more independently, there is limited evidence to support the comments made by them, the appellant and Witness 6. Witness 3 and Witness 4

who moved in December 2017, make no reference to Witness 1 and Witness 2 having lived in The Cabin. The evidence from Witness 5 and Witness 7 covers time periods which fall significantly outside the time when Witness 1 and Witness 2 were living in The Cabin.

61. There was a gap in the occupation of The Cabin between 1 November 2017 when Witness 1 and Witness 2 moved out and 14 December 2017 when Witness 3 and Witness 4 moved in. However, the appellant and Witness 6 explain that works were being carried out. Given the extent of the works which included an extension to the building, this would not amount to a substantial interruption in the continuity of use of The Cabin, had a separate use been established by 1 November 2017.
62. During their occupation of The Cabin Witness 3 and Witness 4 did not pay rent. Again this is not necessarily determinative of a functional connection with Thatched Cottage or evidence that The Cabin was not being used as an independent dwelling.
63. However, in common with the evidence provided in respect of the occupation by Witness 1 and Witness 2 there is limited evidence provided by Witness 3 and Witness 4 to show that they were occupying The Cabin separately from Thatched Cottage. In fact there is a high degree of similarity between the way the evidence is presented and the reference to deliveries and photographs. Again there is no evidence to demonstrate deliveries have been made separately to Thatched Cottage and the photographs show the use of The Cabin as a home but do not evidence the degree of independence described by its occupiers.
64. Witness 4 refers to The Cabin having its own access, front door and key. However, given the facilities and personal belongings which are shown as being present in the photographs from previous occupiers this degree of security would have been necessary from when the building was first converted to living space.
65. The evidence from the appellant shows that when Witness 3 and Witness 4 were living in The Cabin the access/driveway was shared. Therefore while The Cabin had a separate door to gain entry there was still a degree of interaction between its residents and the residents of Thatched Cottage in terms of access and car parking.
66. Further work was undertaken at The Cabin between April 2020, when Witness 3 and Witness 4 moved out and later in 2020 as evidenced by the letters and invoices provided by the appellant. However, some of these works were ongoing after Witness 5 moved in on 23 May 2020 and the gap during which The Cabin was not occupied does not represent a substantial interruption.
67. The use and occupation of The Cabin as a separate independent dwelling becomes much clearer following the occupation by Witness 5. Around that time separate utilities were provided to The Cabin, and it was no longer parasitic on the supplies to Thatched Cottage. The tenant became responsible for paying utility bills and Council Tax. A clear delineation between the land associated with The Cabin and that connected to Thatched Cottage was established by the erection of fencing and a separate vehicular access and parking area was provided.
68. Drawing these points together, whilst the unsigned Tenancy Agreements and the limitations of the bank statements introduce a degree of ambiguity, there is

significantly stronger evidence that Witness 5 was occupying The Cabin independently of Thatched Cottage than compared with its previous occupiers.

69. There is a gap of two months between when Witness 5 says she moved out of The Cabin and when the appellant says another tenant is due to move in on 1 February 2023. The appellant refers to this being time during which The Cabin was cleaned and that the new tenant was expecting deliveries to The Cabin ahead of moving in. The appellant's SD is dated 13 January 2023, and her application is dated the same day. The gap between when Witness 5 moved out and the new tenant is due to move in is a reasonable dwell period between one tenant having moved out and another moving in and does not represent a substantial interruption.
70. The appellant indicates that the reason why The Cabin was converted in the first instance was to provide additional living and sleeping for her family. Over time a succession of family members has occupied The Cabin.
71. The Council notes that unlike a previous application for an LDC the appellant has not submitted evidence from the first occupier of The Cabin, who was her elder daughter. It is for the appellant to decide what evidence to submit in support of the arguments which are made in the application. I do not have the full details of that application before me but in any event the appellant does not contend that The Cabin was being used independently until 1 November 2010 by which time she says her elder daughter moved out and it was then occupied by her younger daughter.
72. The Council also refers to an inconsistency between the evidence given by Witness 1 in respect of what she said about the duration of her occupation of The Cabin in the previous application for an LDC and what she sets out in her current SD. The appellant states that the most recent application for an LDC is much more thorough than the previous applications. However it is not clear whether the second application was accompanied by evidence in the form of SDs which were appropriately witnessed and included a declaration to tell the truth.
73. Notwithstanding the lack of clarity about the status of the evidence by Witness 1 in the previous application for an LDC, the appellant refers to photographs which Witness 1 has provided of cars parked outside The Cabin. She argues that these demonstrate that Witness 1 was living there in April 2013 and June 2013. This is consistent with Witness 1's evidence which I have considered above, and it lends some weight to the proposition that Witness 1's previous evidence was incorrect.
74. With respect to the involvement of the witnesses since 2006/7 when the appellant says that The Cabin was converted, Witness 1 and Witness 3 are family members and refer to the dates when they occupied The Cabin being November 2010 to November 2017 and 14 December 2017 to 20 April 2020 respectively. Their partners', Witness 2 and Witness 4, SDs provide support for the statements made by Witness 1 and Witness 3, but they do not provide significant evidence beyond that provided by the family members.
75. Neither Witness 5 nor Witness 7 are family members or the partners of family members. As such their evidence is unaffected by any familial bond and their relationship with the appellant is on a more transactional basis. However, Witness 5 does not attest to any knowledge of the appeal site prior to the commencement of her occupation on 23 May 2020. Similarly Witness 7 does not provide any account of the way in which The Cabin was occupied before 30 June 2020.

76. There have been gaps between occupiers of The Cabin, but none of these would amount to a substantial interruption in the continuity of use of The Cabin if its independent use had commenced when the appellant said it did on 1 November 2010. However, the evidence that the use did commence on this date is not comprehensive.

Conclusion

77. In order to achieve success on appeal the appellant needs to show that The Cabin has been used as a private dwellinghouse and its associated curtilage for a period of four years without substantial interruption. The Council has not provided significant evidence to contradict the arguments which have been made by the appellant. However, this does not remove the responsibility from the appellant to provide evidence which is precise and unambiguous. In this case, based on my assessment of the evidence, I find that the appellant's evidence is not sufficiently precise and unambiguous such that the balance of probability rests in her favour.
78. There is very limited evidence for the period 1 November 2010 and October 2013 when Witness 1 lived at The Cabin and says that she was doing so independently from Thatched Cottage. Whilst the facilities for independent living were present at that time, there is no clear evidence to support the statements made by the appellant, Witness 1 or Witness 6 that The Cabin was being used other than for its original purpose as additional accommodation given the limited size of Thatched Cottage.
79. Witness 2 commenced occupation of The Cabin with Witness 1 in October 2013. It is likely that the couple had less interaction with the appellant and lived more independently. However, the evidence is not clear and partial in terms of the rental payments and very limited in terms of how The Cabin was being occupied, for example through separate deliveries. The supporting letter from Witness 6 is not substantiated by any supporting documents or explanation as to why he considered the couple were living independently in The Cabin.
80. The same limitations in terms of supporting documents apply to the occupation of The Cabin by Witness 3 and Witness 4 from 14 December 2017 to 20 April 2020. Whilst the photographs show that The Cabin had all the facilities for independent living, they do not demonstrate how it was used in connection with Thatched Cottage.
81. Up until 20 April 2020 the appellant is almost entirely reliant upon written statements from family members and their partners. Whilst these attract significant weight given their status as SDs there is only limited reference to supporting information and the information which is provided is limited in extent and partial.
82. The evidence which has been presented to demonstrate that the use commenced on 1 November 2010 is not clear and thus it does not pass the test of the balance of probability. However, in order to obtain an LDC the appellant can rely on evidence that the use had commenced by 13 January 2019 provided that the site has been used without substantial interruption between that date and the date of her application, 13 January 2023.
83. On the basis of my assessment of the evidence I find that it has been demonstrated that The Cabin was in use as a private dwellinghouse since it was occupied by Witness 5 on 23 May 2020. The relationship between Witness 5 and

the appellant as tenant and landlady is clear from that point and supported by comprehensive details of rental payments. Separate connections to utilities were in the course of being provided and there is some, although, limited evidence in the form of utility bills. The separation of The Cabin from the Thatched Cottage land via the fence and the construction of the separate access also constitute clear and unambiguous evidence of the two properties being separate entities.

84. My finding that The Cabin was clearly a separate dwelling on 23 May 2020 does not, however, provide sufficient justification for the grant of an LDC. This is because of the lack of clarity regarding the way in which The Cabin was used between 13 January 2019 and 20 April 2020 being a significant part of the relevant four year period.
85. From 13 January 2019 to 20 April 2020 the appellant relies on SDs and evidence of occupation by Witness 3 and Witness 4. Whilst Witness 3 refers to their occupation being on the basis that 'they had little to do with his family' and 'kept themselves to themselves' these and other statements, by both occupiers at that time are generally unsubstantiated, limited in extent and partial. Thus the appellant has not demonstrated, on the basis of probability, that the use had commenced and has continued without substantial interruption since 13 January 2019.
86. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the use of the property as a private dwellinghouse and its associated curtilage at The Cabin, Green Lane, Burnham-on-Crouch CM0 8PX 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 (as amended).

Sarah Dyer

INSPECTOR