



Appeal Decision

Site visit made on 9 September 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/C1625/X/25/3365643

Horseshoe Hollow, Upper Kilcott, Hillesley, Wotton-under-Edge GL12 7RN

- 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 Geoff Van Staden against the decision of Stroud District Council.
 - The application ref S.24/2153/CPE, dated 27 November 2024, was refused by notice dated 30 January 2025.
 - 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 the use as a single dwellinghouse.
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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. Notwithstanding the address used on the application form, the appellant has confirmed through this appeal that the correct address for the appeal site is 'Horseshoe Hollow, Upper Kilcott, Hillesley, Wotton-under-Edge, GL12 7RN. I have therefore used this address in the banner heading above.
3. On their application form, the appellant describes the existing use as 'The continuous residential use of a timber-framed, single family dwelling house situated within Stroud District Council's jurisdiction. The property is designed and occupied for full-time residential purposes, operating off-grid with solar-powered electricity and a borehole water system. The dwelling has been in residential use since at least April 2011, providing self-sufficient accommodation for its occupants.' It is clear that the appellant is seeking a certificate for use as a single dwellinghouse and the appellant has agreed it should be considered on this basis. I have therefore excluded wording which does not describe an act of development in the banner heading description above.
4. The appellant has provided a plan, A2, at page 8 of their proof of evidence, which is stated to show residential curtilage. However, the appellant has not sought to identify the extent of land which can lawfully be used for purposes which are incidental to the enjoyment of the dwellinghouse, nor has the Council had the opportunity to comment on the extent of such land. The Planning Practice Guidance (PPG) is clear that precision in terms of any certificate is vital so that there is no room for doubt about what was lawful at a particular date. I sought views from the parties as to whether the plan should be amended to identify the building, so that it is clear it relates to the building only. The parties agreed the plan should be amended accordingly.

Main Issue

5. The main issue is whether the Council's refusal to grant a lawful development certificate (LDC) is well-founded.

Reasons

6. An application under section 191(1)(a) of the Act¹ seeks to establish whether (a) any existing use of buildings or other land is lawful. Section 191(2) sets out that uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
7. The parties agree that the log cabin has been in situ since at least November 2013 and that the cabin and associated land originally had an equestrian use and so use of the building as a dwellinghouse has resulted in a material change of use of the building. The application was made on 27 November 2024, therefore the appellant will need to show that the material change of use of the building to use as a single dwellinghouse occurred on or before 27 November 2020 and continued without significant interruption for a period of at least 4 years thereafter.
8. In an LDC, the burden of proof is firmly on the appellant to make their case, to the civil standard, which is the 'balance of probabilities'. An appellant's evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
9. The appeal building comprises a modest timber structure, with a living area, kitchen, separate bedroom and shower room. The appellant purchased the appeal site in January 2021 and states that they have lived in it continuously since. During my visit, I saw that the building has all the facilities required for day-to-day living and is, as a matter of fact and degree, a dwellinghouse. Evidence, including photographs and a floor plan, provided by the appellant points towards the building having all the facilities needed for day-to-day living prior to their purchase of it in 2021.
10. In support of their case, the appellant has provided details of bulk propane purchased for the site. Given the regularity of the purchases and the sums paid, I consider this is likely to be consistent with the appellant's suggestion that they have occupied the appeal building continuously as a residential dwelling. While the payments do not go back before December 2021, the appellant states that prior to the gas installation, the family used an electric water cylinder. I have no reason to doubt the appellant's statement in this regard.
11. The appellant has also provided evidence regarding the installation of a borehole in 2011, an invoice for the purchase of a solar system in March 2021 and an email, confirming that residential waste collection services have been provided to the address since February 2021. This evidence is consistent with the appellant's suggestion that they occupied the property following their purchase of it in 2021. Although the billing address for some of the documentation provided is different to

¹ Town and Country Planning Act 1990 (as amended)

the appeal address, the appellant has confirmed that this was due to them not having prioritised the change of address with his bank as there was a redirection of mail in place with Royal Mail. This, in my view, is a plausible explanation, particularly since the delivery address accords with the appeal address.

12. The appellant has confirmed that, at the time leading up to their purchase of the site in January 2021, they received verbal confirmation from the estate agent handling the sale that the log cabin had been in residential occupation by the previous owners during the period leading up to their purchase. This is corroborated by a neighbour, who, in a signed statement which has been witnessed by a solicitor, confirms that they have personally observed residential use at the site throughout the period 2013 onwards.
13. Evidence of residential use of the cabin was also submitted in support of an LDC application in 2015 by the previous owner, albeit the Council refused the application, which was not appealed. While it seems Council Tax has not been paid on the cabin, this is not determinative that the building has not been used for residential purposes. Indeed, the appellant suggests that non-payment was as a result of the property not being formally classified by the local authority as a residential dwelling and should not be viewed as evidence against residential use.
14. The appellant states that the log cabin, with its curtilage is a single use and points to physical separation within the appeal site. While the Council has previously raised some concern regarding a potential mixed use, the Council has provided no substantive evidence to show the appeal site was in a mixed use at any point on or after 27 November 2020, thereby contradicting the appellant's version of events in this regard. Significantly, the Council now states that, having had sight of evidence submitted by the appellant during the course of the appeal, it is now of the opinion that the appellant has discharged the evidential burden.
15. While it is not clear from the evidence precisely when the material change of use of the building occurred, in the absence of any evidence to the contrary, I agree that the appellant's evidence shows it is more likely than not that the material change of use of the building to a single dwellinghouse occurred on or before 27 November 2020 and continued without significant interruption for a period of at least 4 years thereafter.

Conclusion

16. 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 the residential use of a timber-framed, single family dwelling house 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).

M Savage

INSPECTOR

Plan

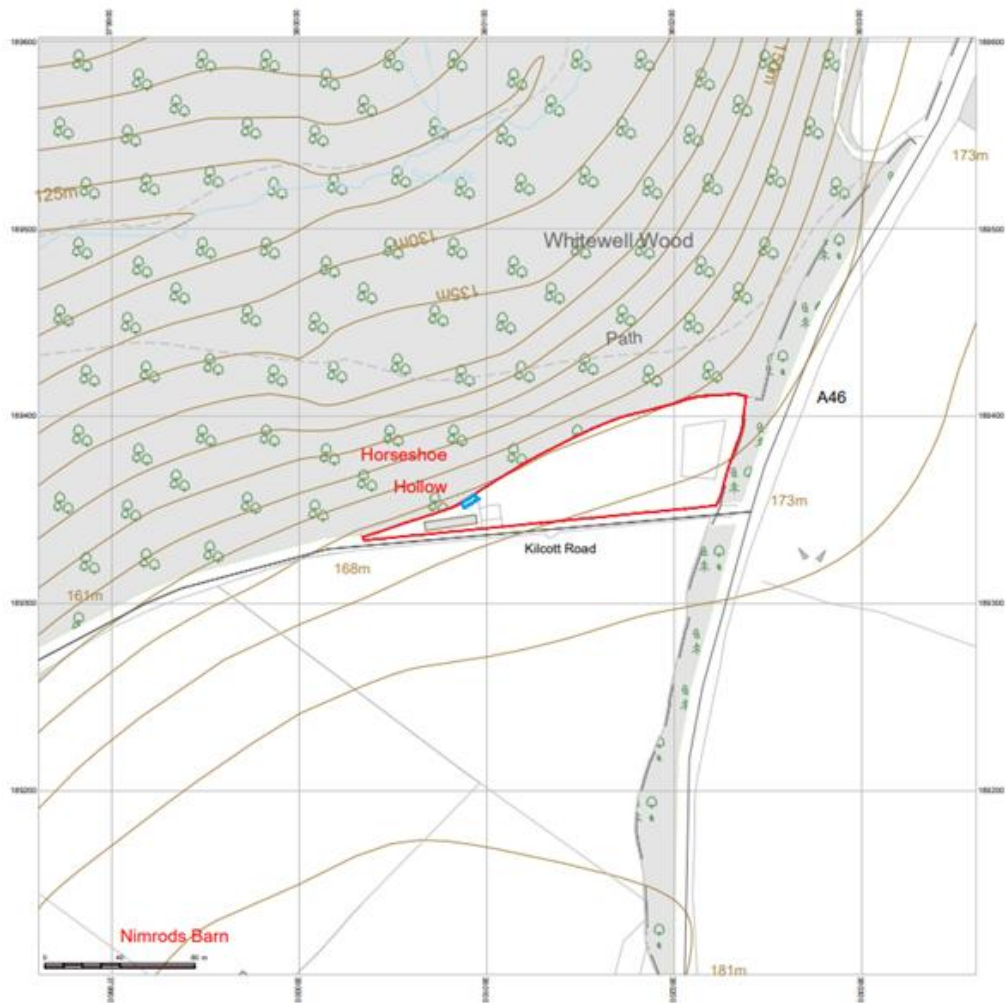
This is the plan referred to in the Lawful Development Certificate dated: **10 October 2025**

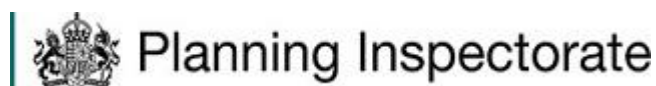
by **M Savage**

Land at: **Horseshoe Hollow, Upper Kilcott, Hillesley, Wotton-under-Edge GL12 7RN**

Reference: **APP/C1625/X/25/3365643**

Scale: Not to Scale





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 27 November 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in blue 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:

It has been shown, on the balance of probabilities, that the building outlined in blue on the attached plan, has been used as a single dwellinghouse for at least four years, without significant interruption and was therefore immune from enforcement action at the date of the application.

Signed

M Savage

Inspector

Date: 10 October 2025

Reference: APP/C1625/X/25/3365643

First Schedule

Use as a single dwellinghouse.

Second Schedule

Land at Horseshoe Hollow, Upper Kilcott, Hillesley, Wotton-under-Edge GL12 7RN

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.