



Appeal Decision

Hearing Held on 14 October 2025

Site visit made on 14 October 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2025

Appeal Ref: APP/G5180/X/25/3367733

56 Cudham Lane North, Cudham, Bromley, Sevenoaks TN14 7RA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Barry Cotman against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/24/03656/ELUD, dated 26 September 2024, was refused by notice dated 6 February 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: Use of building as a residential dwelling.
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Summary of Decision

1. The appeal is allowed and a certificate of lawfulness is issued, in the terms set out below in the Formal Decision.

Preliminary Matters

2. A Case Management Conference was held virtually on 12 August 2025. This was purely procedural, and the merits of the appeal were not discussed.
3. The appeal was scheduled to be heard by means of Inquiry. The parties however did not consider that an Inquiry was necessary, and I was advised during the Case Management Conference that two of the appellant's witnesses could not be called for medical reasons. It was understood that the evidence could then not be tested under oath or by means of cross examination which means it could be afforded lesser weight. I however advised that I was still likely to have questions that would assist in my determination of the appeal and therefore a Hearing would provide an appropriate opportunity for this. The parties agreed to this course of action.

Main Issue

4. The main issue is whether the Council's refusal to grant a certificate of lawfulness is well founded.

Reasons

5. The site relates to a building located to the rear of No. 56 Cudham Lane North. In matters such as this, the onus is on the appellant to demonstrate their case

on the balance of probabilities that the building has been used as a dwelling continuously for a period of at least 4 years (a relevant period). My assessment is therefore fact specific, based upon the evidence before me.

6. The appeal application was originally made with 7 signed statutory declarations. The first was made by the owner of No. 56 Cudham Lane North and declares that the building was built over 20 years ago for his son to live in and was provided with electricity and running water and included a bathroom and kitchen. The father and son have then declared that the son has lived in the building for over 20 years. The remaining 5 declarations then declare knowledge about the son occupying the building for around 20 years or for as long as they have respectively had knowledge of the site. There is also a bill dated March 2019 relating to TV and/or internet sent to the son and which is addressed to 'The Cabin, 56 Cudham Lane North'. A further TV/internet bill dated February 2020 is also provided which is then addressed to the father at '56 Cudham Lane North'.
7. The appeal submission then contains a further 6 addendum declarations with the intention of strengthening the original statutory declarations. Those of the father and son explain the family and medical situation that led to the construction of the building and its occupation. They also declare that the son has lived continuously in the building apart from times when for medical reasons he was in hospital. It is also declared that '*under no circumstances would my Dad let me live in his house*'. An adjoining neighbour also declares that the son has occupied the building '*on a completely independent basis from his father*' and has done so to their knowledge since 2005 when they moved into their neighbouring property.
8. I afford the sworn evidence from these 3 parties considerable weight given their intimacy of knowledge. The remaining sworn evidence, whilst of lesser weight as they lack the intimacy of knowledge, do however corroborate the occupation of the building and highlight, amongst other things, that there is independent access via a separate gated driveway between Nos. 60 and 62.
9. During the Hearing I was advised that the building was erected in around 1997 and was first used by the son on an ancillary basis. This is corroborated by a Council investigation in 2003. In around 2005 it is said that the medical condition of the son was such that by this time there was no functional link between the dwelling at No.56 and where he resided. Whilst there was therefore a familial link, there is little evidence to contradict the appellants version of events and little case law to demonstrate why a building that was within part of a rear garden owned by a family member could not subsequently attain lawfulness as a dwelling.
10. The building itself is then located some distance from the dwelling at No.56 with the garden subdivided from the area where the building is located. Whilst there is a gate and during the Hearing I was advised that the son does access the building via the garden of No.56 when it suits him, there is nevertheless physical separation.
11. On the balance of probabilities there is accordingly physical and functional separation and therefore the building represents its own planning unit. Whilst only representing a snapshot in time, I could also see during my site visit that the building contained the necessary facilities required for day-to-day private domestic existence. This included, amongst other things, an area for sleeping

and sitting with wood burner, kitchenette with fridge and microwave, as well as a toilet and shower. This would also appear to be largely corroborated by earlier photographs referred to by the Council in its delegated report.

12. I accept that the internal condition of the building is now poor, and it does not contain a washing machine. However, because of the medical condition of the son and impact this had on the wider family, I find it less than probable that he either resided in the dwelling at No.56 with the family or had functional links that only rendered the building in incidental use. I also heard during the Hearing that the son lives a more unconventional lifestyle, and which was evident from my site visit. Such matters therefore do not cast doubt in my mind as to the appellant's version of events.
13. I also accept that there is little evidence as highlighted by the Council in respect of the payment of council tax or rent and that electricity and water are supplied via the dwelling at No.56. It is also said that there is little evidence of an official street number/postal address or electoral roll records. This is however not unusual in circumstances such as this and does not provide evidence that the building has not been physically occupied as a dwelling.
14. The statutory declarations are then sufficiently precise to demonstrate on the balance of probabilities that the building has been occupied independently for a continuous relevant period. This includes that of a neighbour who also attended the Hearing and spoke about his knowledge of the family and occupation by the son of the building. The statutory declarations are accordingly not vague or ambiguous and span a relevant period in most cases or otherwise corroborate the use of the building for the period in which those individuals have had knowledge of the site. There is also little evidence that the use of the building has been dormant such that a relevant period has not accrued.
15. Other appeal decisions provided by the Council then do little to cast doubt given the fact specific nature of my assessment.
16. As a matter of fact and degree the appellant has therefore demonstrated their case on the balance of probabilities that the building has been occupied as a dwelling for a relevant period and so the ability of the Council to take successful enforcement action has thus expired.

Conclusion

17. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawfulness was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

18. The appeal is allowed and attached to this decision is a certificate of lawfulness describing the existing development which is considered to be lawful.

Paul T Hocking

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Escott, Agent
Barry Cotman, Appellant
Jolyon Lilley, Neighbour

FOR THE LOCAL PLANNING AUTHORITY:

Roisin Finnegan, Counsel for the LPA
David Bord, Principal Planning Officer

DOCUMENTS:

1. Plan from the Appellant
2. Plan from the LPA



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 26 September 2024 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 on the balance of probabilities the use of the building as a dwelling for a relevant period.

Signed

Paul T Hocking
Inspector

Date: 06 November 2025

Reference: APP/G5180/X/25/3367733

First Schedule

Use of building as a residential dwelling

Second Schedule

Land at 56 Cudham Lane North, Cudham, Bromley, Sevenoaks TN14 7RA

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 described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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:06 November 2025

by Paul T Hocking BA MSc MRTPI

Land at 56 Cudham Lane North, Cudham, Bromley, Sevenoaks TN14 7RA

Reference: APP/G5180/X/25/3367733

Scale: DO NOT SCALE

