



Appeal Decision

Site visit made on 27 October 2025

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th November 2025

Appeal Ref: APP/J0405/X/25/3359370

Hill Farm, Akeley Road, Lillingstone Lovell, MK18 5BL

- 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 & Mrs Chris Porter against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application ref 24/01252/CPE, dated 22 April 2024, was refused by a notice dated 21 June 2024.
 - 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 as a 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.

Application for costs

2. An application for costs has been made by Mr and Mrs Chris Porter against Buckinghamshire Council – North Area (Aylesbury). This application is the subject of a separate decision.

Main Issue

3. Section 194(4) of the Town and Country Planning Act 1990, as amended (the Act) indicates that if, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The planning merits of the development are not relevant in this appeal.
4. The main issue is whether the Council's decision to refuse to grant a certificate of lawful use or development (LDC) was well founded. That turns on whether the applicants can demonstrate, on the balance of probability, that the use of the dwellinghouse, which was constructed and in use as a dwellinghouse before the introduction of planning regulations, remained lawful on 22 April 2024, that being the date of their application for an LDC. To remain lawful there must not have been any subsequent change of use and the use of the dwellinghouse must not have been abandoned.

Summary of Cases

5. The appellants submit that Hill Farm has been in continuous ownership and occupation by their family since 1924 and had been occupied by Martin Roddis as his sole residence from the date of his birth in 1929, until three weeks before his

death in October 2019. In support of their application the appellants have provided a copy of Mr Roddis's birth certificate, along with copies of correspondence from the bank and hospital addressed to Mr Roddis at Hill Farm. A Council Tax Bill for 2019/2020 for Hill Farm is also included as well as details of a Winter Fuel Payment and the Registration/Notification of Mr Roddis's death. A statutory declaration (SD) has also been submitted from Mrs Porter, who is a relative of the late Mr Roddis and who inherited Hill Farm, with others. The SD sets out the history of the building, its past occupiers and her intentions for its future. Although Hill Farm has not been occupied since Mr Roddis's death and is now in a very poor state of repair, it is the appellants intention for the dwelling to be rebuilt as a family home. Having regard to established case law the appellants do not believe the use of Hill Farm as a dwelling has been abandoned and that its use is lawful.

6. The Council's case is that because of the property's poor state of repair and as it has been unoccupied since 2019, its use is deemed abandoned. They contend that the dwelling has lost any residential use rights it might have had as it has not been in continuous use for the previous 4 years. The Council refused the application on the basis that the residential use of the property has been abandoned¹.

Reasons

7. The Council do not dispute that Hill Farm was in use as a dwelling and occupied by Mr Roddis and his family from 1929 until 2019. From the evidence before me I see no reason to disagree, and the property had clearly acquired its lawful use rights as a dwelling during that time. Furthermore, the use of the property has not changed from a dwelling since 2019, albeit it has not been occupied. Thus, it is only necessary for me to consider whether the use as a dwelling has been abandoned.
8. It is established case law that there are four criteria applicable when determining whether a use has been abandoned:
 - the period of non-use,
 - the physical condition of the land or building,
 - whether there had been any other use, and
 - the owner's intentions as to whether to suspend the use or to cease it permanently².

All four factors should be evaluated. Furthermore, it has been held that the owner's intentions should be objective and not subjective³.

9. In this case the property has not been occupied since 2019 when Mr Roddis passed away. However, considering the facts set out in Mrs Porter's SD, following the death of her great uncle it took time for the estate to be valued and to receive probate. Thus, she did not gain sole title of the land until February 2023. In February 2023 and considering the now poor state of the building, she and her husband sought planning advice and in January 2024 made an application for a

¹ LPA Decision Notice and Officer Report, Ref: 24/01252/CPE

² *Trustees of castell-y-Mynach Estate v Taff-Ely BC* [1985] JPL 40.

³ *Hughes v SSETR* [2000] 80 P & CR 397.

replacement dwelling on the Land. It has always been the appellant's intention that her Family would continue the legacy of occupying Hill Farm as their family home.

10. Considering the four criteria set out above, the period of non-use is now six years. A period of six years is not a considerable amount of time, particularly when there have been clear reasons why the property was not occupied during that period. Furthermore, all the evidence suggests that during that time there has remained a clear intention for Hill Farm to continue in residential use and there has been no other use of the building. It is acknowledged that the building is in a poor state of repair. However, it is understood that Mr Roddis had only occupied part of the farmhouse since his father died in 1981 and led a simple life. From 2004, after a hip replacement, he only occupied the ground floor. Potable water was drawn from a well and electricity via a diesel generator. Following his death and whilst the property was vacant in 2020 the house was burgled, vandalised and windows smashed. With nobody occupying the building, nor heated, the condition of the building has deteriorated. However, whilst part of the roof has now collapsed, a visual inspection by a structural engineer appointed by the appellants suggests that the house could be inhabited following remedial works⁴. Moreover, there is no evidence to suggest that there has not always been a clear intention to continue a residential use at Hill Farm.

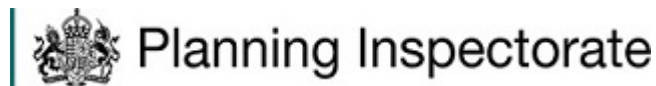
Conclusion

11. Having regard to established case law set out above, the evidence is sufficiently precise and unambiguous to establish on the balance of probability, and with no evidence from the Council that would contradict or otherwise make the appellants' version of events less than probable, that the use of Hill Farm as a dwellinghouse has not been abandoned.
12. Thus, for the reasons given above, I conclude on the evidence available, that the Council's reason for refusal to grant a lawful development certificate in respect of the use of Hill Farm, Akeley Road, Lillingstone Lovell, MK18 5BL as a dwellinghouse 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.

Elizabeth Pleasant

INSPECTOR

⁴ Report by DSA, Ref: DSA/24/57019/SJA/CS/01, dated 16 January 2025.



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 22 April 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:

On the balance of probability there has been no subsequent change of use from the property's lawful use as a dwellinghouse and the use as a dwellinghouse has not been abandoned.

Signed

Elizabeth Pleasant

Inspector

Date: 17th November 2025

Reference: APP/J0405/X/25/3359370

First Schedule

Use of the property as a dwellinghouse.

Second Schedule

Land at Hill Farm, Akeley Road, Lillingstone Lovell, MK18 5BL

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: 17th November 2025

by Elizabeth Pleasant

Land at: Hill Farm, Akeley Road, Lillingstone Lovell, MK18 5BL

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Scale: Not to Scale

