



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2025

Appeal Ref: APP/J1915/X/24/3350535

The Oaks, Wellpond Green, Standon, Ware SG11 1NN

- 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 Mrs Gillian Leage against the decision of East Hertfordshire District Council.
 - The application ref 3/23/1996/CLXU, dated 20 October 2023, was refused by notice dated 22 February 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which an LDC is sought is the use of 'The Garage Annex' as a separate residential dwellinghouse.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operation which is found to be lawful.

Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. The Oaks is a detached dwelling in a large residential plot. Within the plot is 'The Garage Annex'. At ground floor level of the annex is garaging and a hallway providing access to first floor residential accommodation. The accommodation comprises a bedroom with en-suite bathroom, a living room, a kitchen and a study. The accommodation is the home of the Appellant and The Oaks is the home of her daughter, Mrs Hannah Hampson, and her family. For the use of the 'The Garage Annex' as a separate residential dwellinghouse to be immune from enforcement action and thus lawful the use must have commenced more than four years before the date of the application. The onus of proof is on the Appellant who must provide sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the use of 'The Garage Annex' as a separate residential dwellinghouse subsisted continuously through the four year period prior to the date of the application.
4. The Appellant and her daughter have submitted sworn, signed and dated statutory declarations. Both declarations indicate that The Garage Annex has been occupied by the Appellant since 1 August 2019. The Council claims that 'since' could mean that the Appellant occupied The Garage Annex on 1 August 2019 and then moved out between that date and the date of the application. 'Since' means 'in the intervening period between a date and another later date'. In this case the date is 1 August 2019 and the later date is the date of the application. There is no reason to doubt, on the basis of the

statutory declarations, the Appellant's claim that she has occupied The Garage Annex for the period 1 August 2019 to the date of the application.

5. The Annex, independent of The Oaks, has its own highway access and letterbox and is registered as a separate dwelling. It has its own metered electricity supply, an independent air source heat pump, independent telephone line and broadband connection, and an independent sewerage system. Council Tax, without any reduction, has been paid on The Garage Annex since 1 August 2019; that the property is identified as being 'The Garage Annex at The Oaks' is not relevant. The lack of physical separation between The Oaks and The Garage Annex is not crucial; open plan access areas for two or more dwellings is common, particularly in the countryside.

6. Evidence of payment of Council Tax and utility invoices is lacking; only two Tax invoices have been submitted and no utility invoices. But the two statutory declarations are compelling. The Appellant clearly leads an independent life; part time employment and many interests including travelling. Her daughter does not make use of the garaging in The Garage Annex and lives her own independent life with her family. She does not provide any care to her mother. Contact between them is likely to be no different to any other situation where mother and daughter live in separate dwellings that are close to each other.

7. The Appellant has provided sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that occupation of 'The Garage Annex' as a separate residential dwellinghouse subsisted continuously through the four year period prior to the date of the application. The application is for use of The Garage Annex only, and not for use of other buildings and land around The Garage Annex.

8. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for the use of 'The Garage Annex' as a separate residential dwellinghouse at The Oaks, Wellpond Green, Standon, Ware was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



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 20 October 2023 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black 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 Garage Annex’ has been occupied as a separate residential dwellinghouse for in excess of four years prior to the date of the application

Signed

John Braithwaite

Inspector

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First Schedule

Use of ‘The Garage Annex’ as a separate residential dwellinghouse

Second Schedule

Land at The Oaks, Wellpond Green, Ware SG11 1NN

IMPORTANT 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: 26 November 2025

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Land at: The Oaks, Wellpond Green, Ware SG11 1NN

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Scale: Not to Scale

