Planning Inspectorate

Appeal Decision

Site visit made on 5 November 2025

by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2025

Appeal Ref: APP/C1570/X/24/3356493
The White House Coffee Co Ltd, The Roastery, Clavering Road, Manuden, Essex, CM23 1BQ

- 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 White House Coffee Company Limited against the decision of Uttlesford District Council.
- The application ref UTT/24/1544/CLE, dated 17 June 2024, was refused by notice dated 22 November 2024.
- The application was made under section 191(1)(b) 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 of a former residential outbuilding as a coffee roastery.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr Charlie Kershaw against Uttlesford District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Two appeals are before me relating to the same site, one seeking outline planning permission for the erection of a single dwelling and the other – subject of this decision – seeks confirmation that the use of a former residential outbuilding as a coffee roastery is lawful. Given that the two appeals deal with distinct issues I have issued a separate decision letter for each appeal.

Reasons

4. An application for a Certificate of Lawfulness for an Existing Use or Development (CLUED) is not an application for planning permission. As such my decision makes no comment on the planning merits of the development. The main issue is whether the Council's decision to refuse to grant a CLUED was well-founded. The onus rests with an appellant to make their case, on the balance of probability.

5. The outbuilding in question is situated to the rear of the dwelling known as White House Corner, at the bottom of a large garden. Vehicular access comes from Clavering Road. Shortly after leaving the carriageway the drive branches left to pass through the entrance gates to the dwelling but also continues straight on to reach the outbuilding which is presently separated from the garden of the house by a line of fencing and planting.

6. Planning permission for the extension of an existing garden shed to form a garden equipment and machinery storage area was approved by the Council in May 2010 (the 2010 permission)[1]. Condition 4 of that permission stated that the use of the outbuilding should remain ancillary and subservient to the primary use of the dwelling known as White House Corner. There is no dispute that the building works to extend the structure were completed in 2011 or January 2012 at the latest.

7. The appellant's evidence, supported by statutory declarations, witness statements, photographs, utility bills and financial information relating to the business, is that the use of the building for roasting coffee has continued since the autumn of 2011. The Council does not dispute the evidence that coffee roasting has taken place since that time.

8. The main focus of the Council's argument is that insufficient evidence has been submitted to demonstrate that the use was at a level that would not have been ancillary to the associated dwelling. In other words, that the appellant has not adequately demonstrated that the condition was breached from 2011 up until 2018 when the dwelling, which was formerly owned and occupied by the appellant, was sold. The outbuilding was not part of the sale but was retained by the appellant who continued to use it as a coffee roastery.

9. The Council's position is that marked a new chapter in the planning history, at which point the condition requiring the building to be used for ancillary purposes was breached. Given that was less than ten years prior to the date of the CLUED application, the Council contends it cannot have gained immunity from enforcement action due to the passage of time having regard to section 171B of the Town and Country Planning Act 1990 (the Act).

10. In contrast, the appellant contends that the use was not ancillary to the residential use of the property and that it had become a separate and dominant use from 2011 onwards, such that a material change of use (MCU) had occurred. In his view that use had continued for more than ten years at the time the CLUED application was made, such that it had become immune from enforcement action by virtue of s171B and was therefore lawful by virtue of s191(2)(a) of the Act.

11. I am minded to agree with the appellant that the use of the building for coffee roasting on a commercial basis was not ancillary to the residential use of the dwellinghouse. Firstly, it is not a use or activity one would normally associate with a residential use and it is not clear how roasting coffee on a commercial basis could be said to be ancillary in nature. One is a residential use, the other a commercial business use.

12. The scale of activity also appears to have been substantial, with approximately 10 to 14 metric tonnes of coffee being purchased per annum between the period 2012 to 2018. The equipment needed to grind and roast the coffee was not of a domestic scale but involved specialist commercial machines, including associated stainless-steel fixtures and fittings.

13. Balance sheets for the company also testify to the scale of the business which amounted to the appellant's main source of income. Associated deliveries of supplies, outward movements of the ground coffee to customers or for sale at

[1] Planning permission reference UTT/0571/10/FUL

farmers' markets and customers collecting ground coffee directly from the site on occasion. Whilst the appellant was the only full-time employee, another employee would visit the roastery 2 or 3 times a week to help pack and deliver the coffee.

14. The appellant also accepts that the use has generated odour impacts, as evidenced by the complaint to the Council's Environmental Health team in 2023. Environmental impacts are not determinative, of themselves, of a MCU but they do provide an indication that the nature of the activity was beyond what would normally be expected in a residential property. Prior to the dwelling being sold and complaints from the new occupant, the Council were seemingly unaware of the use. However, that is not altogether surprising given the fact that the appellant was living in the dwelling prior to that point and there are no immediate neighbours that would have been affected, given that the property is surrounded by agricultural land.

15. The fundamental characteristics and scale of the business were such that it would have a markedly different character when compared to a solely residential use. In my view that change in character was materially different and not of an ancillary nature. Consequently, on the balance of probabilities, condition 4 had been breached from late 2011/ early 2012 onwards.

16. It is also likely that the commercial activity led to a MCU at the site. The starting point for assessing whether a MCU has occurred is to look at the relevant planning unit. In 2010, when permission to extend the outbuilding was granted the planning unit clearly encompassed the dwelling and its associated curtilage, including the outbuilding which was in the corner of the garden. The appellant lived in the dwelling and set about using the outbuilding in association with his coffee roasting business.

17. The whole site remained in the same ownership. Whilst I recognise that ownership is not necessarily indicative of use, there was clearly a synergy between the residential occupation of the dwelling and the operation of the coffee roasting business. In other words, the appellant lived on site and could move freely between the two elements.

18. Moreover, given that he was the only full-time worker at the business, when he was working, his residential use of the property would not be disturbed by the activity associated with the commercial element. Conversely, when he wasn't working, little activity would be taking place in the outbuilding so his living environment would be unaffected by the commercial element. No doubt others maybe lived in the dwelling with the appellant but the point still applies in that the two uses co-existed on the same site, side by side.

19. That is quite a common arrangement, particularly in rural properties where residential activity takes place in the dwelling but the owner carries out some other form of commercial activity converted barns or outbuildings. In my view the close relationship between the two elements was such that the land remained in a single planning unit and there had effectively been a material change of use from a residential use to a mixed use of residential and commercial use associated with the coffee roastery.

20. The use then continued in that manner until November 2018 when the appellant decided to sell the dwelling but retain the outbuilding, along with access rights to it. That marked a new chapter in the planning history. After that point in time there

was no relationship between the residential element and the coffee roastery and the single planning unit was subdivided.

21. In my view that led to a further material change of use from a single planning unit in a mixed use to two planning units, each in separate uses. The coffee roastery only became a single planning unit in commercial use from that point onwards. I note that the driveway to the building appears to have been extended in 2012 but that is not indicative that it was in separate use at that time. The driveway was all part of the same parcel of land, branching off from the main entrance to the house, as described above. That position does not alter my conclusion that the site was a single planning unit in mixed use up until November 2018.

22. The fact that a complaint to the Environmental Health department relating to smoke, odour and light from the business was submitted in 2023 is perhaps evidence of that change in action. That complaint was submitted from the new occupants of White House Corner. It is not clear if any action was taken or if the complaint was justified but it does emphasise the difference between a site in use as a single planning unit, where the residential use and commercial use are occupied/ run by the same person and a site in separate ownership where there is no connection between the two uses.

23. In that scenario, the two uses will be unconnected so that comings and goings between each element may not coincide; times when odour or emissions from the commercial element may coincide with times when the neighbour seeks to enjoy the residential use without disturbance or annoyance etc. Situations that would not occur when the site was a single planning unit.

24. In my view that is indicative of a MCU from a mixed use to a single use as a coffee roastery. Planning permission was required for that MCU but no such permission was sought or granted. Therefore, the existing use is unauthorised. When the CLUED application was made in June 2024, that use had continued for significantly less than 10 years, since November 2018 and had not gained immunity from enforcement action. It follows that the use was not lawful, on the balance of probability.

25. It is the case that the use of the building had been in breach of condition 4 since 2011, well in excess of ten years, first as part of the mixed use and then as part of the stand-alone commercial use. However, that does not dictate that the use was lawful, given that a material change of use was also involved.

26. In some respects, Condition 4 could be said to have a superfluous function because it sought to prevent the use of the building being anything other than ancillary to the dwelling. The 2010 permission granted permission for operational development and not for a material change of use. In other words, permission was granted for the extension of a domestic outbuilding. Any use of the structure which was not ancillary to the use of the dwellinghouse and was materially different in character would require planning permission for a MCU, regardless of the imposition of condition 4.

27. In fact, had the appellant applied to “vary” condition 4 under s73 of the Act to allow for the commercial use, I am not satisfied that would have been within the scope of what could be considered under such an application. That is because the original permission was for operational development and to vary the condition to allow for a MCU would represent a change to the operative part of the permission.

28. Consequently, the fact that condition 4 has been breached for a period of more than 10 years from the date of the application does not alter my conclusion that the use of the building as a coffee roastery is unlawful within the meaning of the Act. For the reasons set out no planning permission was granted for the MCU, either the initial MCU to a mixed use or the subsequent MCU to two planning units in separate use. For the reasons set out, the use has not gained immunity from enforcement action due to the passage of time.

29. Overall, the Council's refusal to grant a CLUED was well-founded, even though its reasons for making that decision did not align with my reasons for arriving at the same position. It follows that the appeal shall fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Chris Preston

INSPECTOR