



Appeal Decision

Site visit made on 14 October 2025

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2025

Appeal Ref: APP/F0114/X/25/3371200

Lake View, Stoke Hill, Chew Stoke, BRISTOL, BS40 8XJ

- 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 A Cooke against the decision of Bath and North East Somerset Council.
 - The application ref 24/04347/CLEU, dated 22 November 2024, was refused by notice dated 21 February 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended) ('the Act').
 - The use for which a certificate of lawful use or development is sought is Use of land for residential purposes in association with the dwellinghouse.
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Decision

1. The appeal is dismissed.

Reasons

2. Lake View is a detached, two-storey house, sitting within a generous garden on the west side of the B3114, a short distance from the village of Chew Stoke. A track wide enough for one vehicle runs along its south and west sides. Part of the track separates it from the land that forms the subject of the appeal. This land is further bounded by the B3114 and farmland. It is surrounded by natural hedges and trees.
3. The property lies within the Bristol and Bath Green Belt and the Mendip Hills National Landscape. However, neither designation has a bearing on the appeal.
4. Section 191(1)(a) of the Act states that any person who wishes to ascertain whether any existing use of land or buildings is lawful can make an application for a certificate of lawful existing use. Section 191(2) states that such use would be lawful if (a) no enforcement action might be taken against it and (b) the use did not contravene the requirements of any enforcement notice then in force.
5. The Appellants made their application on 22 November 2024. As there was no enforcement notice in force, the question to be answered was had the claimed use been carried out continuously for 10 years before that date, using the time limits in s171B of the Act. If a lawful use was established, it needs to be demonstrated that the use was not, for any reason, lost thereafter by the time of the application. It is for the Appellants to make their case on the balance of probability and, where, the Council has no evidence of its own, the Appellant's evidence must be sufficiently precise and unambiguous.
6. Given the very limited width of the track, I find that the two to have a close physical relationship. The presence of gates in both the boundary of the garden

surrounding the house and that of the appeal site allow for easy and quick access between the two. It is not uncommon for houses to have areas of detached garden, separated by a road, track or lane. In the circumstances, I find that neither this separation, nor that the main entrance to the land has an agricultural style gate, precludes the appeal site from being a garden area, .

7. Given this, the issue to be addressed is how the appeal site has been used over time.
8. The Appellants, who bought the property in May 2021, made their application following receipt of a Planning Contravention Notice, served by the Council. Therefore, they are reliant on the previous owners, Mr and Mrs P, to provide evidence of the use of the land during the bulk of the ten-year period. Amongst the information provided with the application was a statement of truth signed by the Appellant. This carries significant weight, save for the comments he makes in respect of conversations with Mr and Mrs P. I give this relatively little weight.
9. Seemingly to address this, statutory declarations ('SD') from both Mr and Mrs P were submitted later in the application process. In these, they say that they used the land continuously as part of their garden during their ownership of the land, moving freely across the intervening lane. The land was deliberately kept in a more wild state, but they would create paths through it by mowing and cutting vegetation back. They say they never used the land for agricultural purposes and cite a number of activities that took place on the land during their ownership.
10. Amongst these, they say that they used the land for the parking and storage of vehicles. When this involved their own vehicles, to allow visitors to use their drive, it would not have amounted to a use materially different from the use of the land as a garden area.
11. However, in common with the Council, I have reservations regarding the evidence concerning the parking and storage of vehicles associated with Mr P's business. He describes this as the "buying and selling of cars" and that he "would keep some stock on land B [the appeal land] up to 3 or 4 vehicles at a time". He also stored broken down cars on the land, "for months at a time" pending repair.
12. There is no satisfactory explanation as to how this equates to the claimed use of the land. At first blush, those car-related activities suggest a materially different use of the land. However, notwithstanding this, it still might be that there were ten years of continuous use as a garden afterwards. In the absence of further details, such as the period that this use occurred and the proportion of land so used, I find the evidence is not sufficiently precise and unambiguous to support the Appellant's claimed use of land.
13. Mr and Mrs P state that they stored surplus building materials and deposited waste materials arising from building works to the house and the erection of an outbuilding. Although there was a quite considerable amount, in my experience keeping such material in a garden after building works is not unusual. The deposited material was, at least in part, used to create a quad bike course for their children.
14. Whilst the quad bike use is unusual, I find that this could be a use carried out in a large garden area, such as this, especially as, being close to the house, the use could be monitored.

15. I note the reference to quad biking in an appeal decision submitted by the Council (PINS reference APP/C1570/X/13/2208664), where the Inspector said that it, and the lighting of bonfires, “may just as easily take place on the land because it is separated from the rest of the appellant’s domestic property rather than because it is part of it”. I understand that comment, but I note that he went on to find the evidence there was too general in nature and clearly had some doubt about the use of the land for quad biking at the same time as it was said to be used for keeping chickens. Furthermore, save for describing its shape, there is no description of the land or how large it was; this could well have had a bearing on the Inspector’s decision on those activities. To my mind, the lighting of bonfires is commonplace in gardens, even smaller ones where the fire would be close to the house.
16. That the case officer believed that the activities “would be preferred to take place further from the dwelling” is immaterial. The distance from the house where fires might be lit or quad bikes ridden would be a choice for the landowner, rather than the Council. Furthermore, the argument that those activities would have been undertaken too close to the dwelling seems to run counter to the Council’s position that there “does not appear to be a close functional relationship” between the house and the land.
17. Other activities that Mr and Mrs P refer to, such as a swing that had been attached to a large oak tree that their daughters enjoyed using, would also be uses that would point to the land being used as a garden.
18. I have assessed the letter and statutory declaration that were submitted by the owners of the lane between Lake View and the appeal site. They live at a neighbouring property, Lakeside. They say they were friends with Mr and Mrs P when they lived there and that there was never anything like garden furniture on the land and Mr and Mrs P never used the land as part of the garden. The character of the land, they say, changed between April 2020 and May 2023.
19. The letter included photographs taken from sales particulars from the time of the Appellant’s purchase of Lake View. They are snapshots in time and do not take the matter forward, and I find this to be the case with aerial photographs submitted by the Appellant and Council as well.
20. In their SD, the third parties say the previous owners never used the land as part of their garden and it has only been used as agricultural land. However, the Council does not so much question that non-agricultural uses have occurred, as question whether those uses were for purposes associated with the residential use of Lake View, and I am inclined to agree with it on that.
21. From the evidence before me, I find that the Appellant and his family have used the land for the purposes applied for in the certificate. The Council doubt this and cite a site visit on 14 January 2025; though this is largely immaterial given that it post-dated the application. Amongst its reasoning for doubting that the use was occurring at that time was that that the only item of “residential paraphernalia” on the land was a picnic bench. I find this to be unsurprising, as many people would only leave large or heavy items on land in midwinter. Otherwise, the photographs reflect what I saw at my visit: a number of raised beds, a small amount of chickens, the frame of a greenhouse. I saw these features and found them to be indicative of the residential use of the land.

22. In the light of the above, my overall finding is that the use of the land for the purposes claimed by the Appellant has not been demonstrated. For the reasoning that I have given, I find that much of the use that Mr and Mrs P put the land to could reasonably be seen as being associated with the residential use of the main house and garden. However, the evidence put forward in terms of the parking and storage of cars on the land associated with Mr P's business does not demonstrate this in a manner that is sufficiently precise and unambiguous.

Conclusion

23. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use of land for residential purposes in association with the dwellinghouse is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Roy Curnow
Inspector