
Appeal Decision

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2025

Appeal Ref: APP/X3405/X/25/3370768

25 Hednesford Street, Cannock, Staffordshire, WS11 1DJ

- 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 Trevor Bartlett against the decision of Cannock Chase District Council.
 - The application ref CH/25/0158, dated 6 May 2025, was refused by notice dated 8 July 2025.
 - The application was made under section 192(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 existing use of basement and granny flat annexe as two individual one bedroom flats.
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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.

Procedural Matters

2. The application form and the appeal form indicate that the application was made under s192 of the Town and Country Planning Act 1990 (the Act) for a Lawful Development Certificate (LDC). S192 provides for the certification of any lawful proposed use or operations. However, the description of development given on the application form and supporting evidence indicate that the appellant sought to establish the lawfulness of an existing use under s191(1)(a) of the Act. The Council determined the application on that basis. An Inspector can determine an appeal under s191 even if the application was made under s192, where it is clear that the appellant is in reality seeking to ascertain that an existing use or development is lawful. I have therefore determined the appeal under s191(1)(a) of the Act.
3. The appellant submitted additional evidence with the appeal including a statutory declaration and copies of rental invoices. While these details were not before the Council when it considered the application, the Council has had the opportunity to consider them during the appeal process. S195 of the Act refers to the authority's refusal being well-founded, meaning the local planning authority's decision, not the reasons for the decision. It would serve no public purpose for me to refuse the LDC strictly on the basis of the evidence submitted with the application, because it would be open to the applicant to make a further LDC application based on the evidence that came to light after the Council's decision. I shall therefore consider it on the basis of the evidence submitted as part of this appeal.
4. No site visit was necessary in this instance as the appeal can be determined based on the submitted evidence. The parties did not object to this approach.

Main Issue

5. The main issue is whether the Council's refusal to grant a LDC was well-founded. This turns on whether the appellant can show, on the balance of probability, that the use of the building as two self-contained flats was lawful at the date of the application.

Reasons

6. Under s191(2) of the Act, a use is lawful if no enforcement action may then be taken in respect of it (whether because it did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and it does not constitute a contravention of any of the requirements of any enforcement notice then in force.
7. The onus of proof is on the appellant, with the relevant test being the balance of probabilities. The appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence is sufficiently precise and unambiguous.
8. The appeal premises was approved as a granny annex ancillary to the main house, 25 Hednesford Street, also known as The Old Dairy, under planning permission CH/07/0350. The submitted plans show that the building is arranged as two self-contained flats. The appellant refers to these as No. 25A (basement) and No. 25B (the annex).
9. The Council's concern is that the appellant has not provided sufficient evidence to demonstrate that the building has been used as two flats continuously for at least ten years prior to the date of the application. However, the transitional provisions¹ set out that the time limit for taking enforcement action in respect of a breach of planning control consisting in the change of use of any building to use as a dwellinghouse (including flats) which occurred before 25 April 2024, is four years.
10. The evidence strongly suggests that the change of use to two flats took place before 25 April 2024. Accordingly, the appellant must demonstrate that the use as two flats commenced at least four years before the date of the application, namely, 6 May 2025, and that this use continued without any significant interruption thereafter, so as to be immune from enforcement action.
11. The application form states that the use as individual flats began in July 2010. The appellant's statutory declaration states that the granny flat (No. 25A) began paying a separate council tax charge in July 2010. This is supported by the valuation officer's letter which shows that a new council tax entry was made on 15 July 2010 because the 'property comprises a dwelling for council tax purposes'. The statutory declaration provides dates on which the use as flats commenced, but it does not confirm continuous use or occupation during the relevant period.
12. The submitted details for No. 25A also include a shorthold tenancy agreement dated 21 January 2025, covering the period immediately preceding and up to the date of the application, and rental accounts from October 2012 through to February

¹ The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024

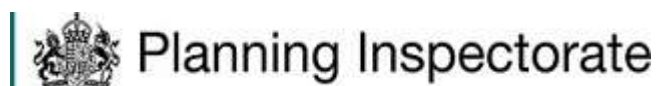
2024. There are gaps in these accounts between January 2016 and March 2019 and between February 2022 and January 2024.
13. The statutory declaration confirms that the annex (No. 25B) was separated from The Old Dairy in 2012 but retained the address of 25 Hednesford Street to differentiate it from The Old Dairy and No. 25A, and that it was subsequently rented out as a separate dwelling. It was then allocated a new address of No. 25B in June 2018, as confirmed in an email from the Council.
 14. There is a tenancy agreement for No. 25B dated 1 February 2019, and rental invoices from August 2014 to April 2025, with gaps in 2017-2018. The gaps in the rental accounts for both flats have not been explained. That said, gaps in occupancy do not necessarily break continuity of use, and there is no indication that the use as two flats ceased during those periods.
 15. There are some discrepancies in the evidence regarding the dates when No. 25B was first used as a self-contained flat. The appellant claims that No. 25B was separated from The Old Dairy in 2012 and subsequently rented out as a separate unit, but the rental invoices for this flat date from 2014 and a new postal address does not appear until June 2018. In any event, these dates indicate a period significantly exceeding the four years required.
 16. Despite certain gaps and inconsistencies, as set out above, the overall evidence provided leads me to conclude that it is more likely than not that the building was in continuous use as two flats for at least four years immediately preceding the application date. In particular, the rental accounts show that No. 25A was rented out between March 2019 and April 2025, and No. 25B between March 2019 and February 2024, without a material interruption. The Council has not provided any substantive evidence to contradict or otherwise make the appellant's version of events less than probable.
 17. On the balance of probabilities, and in the absence of any evidence to the contrary, the appellant has demonstrated that the appeal property was used as two flats for a minimum of four years before the date of the application. I have not been made aware of any enforcement notice relating to the appeal property. In these circumstances, on the date of the application it was too late for the Council to take enforcement action in respect of the use of the building as two flats.

Conclusion

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

M Ollerenshaw

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 6 May 2025 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 evidence shows that, on the balance of probability, the use of the basement and granny flat annex as two individual one bedroom flats began more than four years before the date of the application and had been continuous for the requisite period ending on the application date. No enforcement action could have been taken in respect of the use because the time for enforcement action had expired and it did not constitute a contravention of any of the requirements of any enforcement notice then in force.

Signed

M Ollerenshaw

Inspector

Date: 16th December 2025

Reference: APP/X3405/X/25/3370768

First Schedule

Use of basement and granny flat annex as two individual one bedroom flats.

Second Schedule

Land at 25 Hednesford Street, Cannock, Staffordshire, WS11 1DJ.

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 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: 16th December 2025

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Scale: Not to Scale

