



Appeal Decision

Site visit made on 24 November 2025

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal Ref: APP/T3725/X/24/3355214

Meadows Hut, Church Lane, Stoneleigh, Warwickshire CV8 3DN

- 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 David Smith on behalf of JBC Property Developments against the decision of Warwick District Council.
 - The application ref W/24/0690, dated 17 May 2024, was refused by notice dated 20 August 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 to acknowledge that the property has a nil use in planning terms.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

3. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Town and Country Planning Act 1990 (the Act) if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. 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 his evidence alone is sufficiently precise and unambiguous.
4. The LDC application sought to confirm that the existing lawful use of the appeal building is a 'nil use'. The evidence in support of the application contends that the use of the building as a community use has been abandoned and as a result the building now has a nil use. The Council's case is that it has not been sufficiently demonstrated that the community use has been abandoned and this was the basis on which the granting of a certificate was refused.
5. Notwithstanding the above, s191(1) of the Town and Country Planning Act provides that: "*if any person wishes to ascertain whether (a) any existing use of*

buildings or other land is lawful ... he may make an application for the purpose to the local planning authority specifying the land and describing the use"

6. S191(1) of the Act specifically requires there to be an "existing use". However, the basis on which the LDC application was made is that the lawful use of the building is a 'nil use'. Although 'nil use' is a well-established concept in planning law, it typically means an absence of a use, ie a building with a nil use has, in fact, no lawful use. Given the wording of s191(1)(a) there must be an actual *existing use* for a certificate to be granted.
7. Consequently, there is no mechanism within s191(1) to grant a certificate to confirm the existing lawful use of a building is a 'nil use'. As such, it is not necessary to consider the merits of the appeal as a certificate cannot be granted.
8. I conclude that, on the balance of probabilities, an LDC cannot be granted for the use of the appeal building as a 'nil use' pursuant to s191(1)(a).

Conclusion

9. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of confirmation that the building has a 'nil' use was 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.

A Walker

INSPECTOR