
Appeal Decision

Inquiry held on 22 January 2026 and 2 February 2026

Site visit held on 21 January 2026

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 6 February 2026

Appeal Ref: APP/L3815/X/25/3371035

Land south of 2 Churchlands Cottage, Village Road, Kirdord, West Sussex RH14 0LU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr & Mrs Nik and Sylvia Tobutt against the decision of Chichester District Council.
 - The application Ref KD/25/00622/ELD, dated 12 March 2025, was refused by notice dated 24 June 2025.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is described as the use of 2 no. permanent structures for residential use, with alterations undertaken to one of the structures.
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Summary Decision: the appeal is dismissed

Applications for costs

1. An application for costs was made by Mr & Mrs Nik and Sylvia Tobutt against Chichester District Council. An application for costs was also made by Chichester District Council against Mr & Mrs Nik and Sylvia Tobutt. Those applications are the subject of separate Decisions.

Procedural Matters

2. All evidence at the Inquiry was given under oath by way of affirmation.
3. In the written evidence that was submitted, but not in the description of development itself, the 2 no. permanent structures claimed to be used for residential purposes were identified as Building 1 and Building 2 respectively. I have adopted that description here.
4. It became evident to me through my initial reading of the evidence, and confirmed at the site visit, that the description of the use/development for which the certificate of lawful use or development is sought was neither accurate nor sufficiently precise. In particular, it was clear that Building 2 was divided into three separate units. Furthermore, the description of 'with alterations undertaken to one of the structures' could be read as pertaining to either Building 1 or Building 2. Neither does the description of development identify what those 'alterations' are.

5. In relation to Certificates of Lawful Use or Development (LDC), the Planning Practice Guidance (PPG) makes it clear that an application needs to describe precisely what is being applied for and that precision in the terms of any certificate is vital, so there is no room for doubt about what was lawful at a particular date. Accordingly, as part of my opening of the Inquiry I sought the views of the parties on the following amended description:

Use of 2 permanent structures for residential use, providing one residential unit in Building 1 and 3 residential units in Building 2, with alterations undertaken to Building 2.

6. Both parties initially indicated that they were content with that description. However, as part of its Closing Submissions, the Council put forward a further amended description of development, specifically:

Use of 2 permanent structures for C3 residential use as single dwelling houses, providing one C3 residential unit in Building 1 and 3 C3 residential units in Building 2, with alterations undertaken to Building 2

7. The rationale behind that clarification is that on the application form for the Certificates of Lawful Use or Development dated 12 March 2025 the appellants (then applicants) described the relevant Use Class of the existing use as a use falling within Use Class C3 -Dwellinghouses as set out in the Town and Country Planning (Use Classes) Order 1987 (UCO). As the Council points out in its Closing Submissions, the different uses that a dwellinghouse may be put to include uses falling within Use Classes C4 (house multiple occupation), C5 (used otherwise as sole or main residence) or C6 (use of dwellinghouse for short term lets).
8. The appellants object to the specific reference to Use Class C3 in the description of development, reminding me that the description of the existing use on the application form was for two permanent structures in residential use and thereby not restricted to any particular Use Class within Class C. Nevertheless, on my reading of the evidence, the appellants are seeking to show that that Building 1 has been occupied by Mr Nicholas Tobutt as a single household and that Building 2 has been occupied Mr Charles Tobutt/Ms Emma Fehrenbach and by Mr Luke De St Croix also as single households. It is no part of the appellant's evidence that the existing use of either Building 1 or Building 2 is as a house in multiple occupation (Use Class C4), otherwise as sole or main residence (Use Class C5) or as short term lets (Use Class C6).
9. The need for Certificates of Lawful Use or Development to be clear is set out in (*R. (Flint & Pinker) v South Gloucestershire Council* [2017] J.P.L. 310 and reiterated in the PPG. In the event that I was to grant an LDC on the basis of a 'residential use', that would entitle the appellants to use Buildings 1 and 2 for any of the residential uses in Use Class C. Having regard to the reference to C3 Dwellinghouse in the application form and the evidence put forward by the appellants, it seems to me that this is the use for which the LDC is sought. In the interests of precision, I will therefore adopt the amended description advanced by the Council.
10. In retrospect, it occurs to me that even this amended description does not fully address the extent and/or nature of the alterations that have been undertaken to Building 2. Had I found that the use of Building 2 as claimed had been lawful, I would have reverted to the parties to seek a more detailed description

of the alterations that had taken place. However, given my findings in relation to lawfulness of the use of Building 2 itself, there is no merit in doing so.

Reasons

11. Section 192(2) of the Town and Country Planning Act 1990 (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case shall refuse the application. My decision is therefore based on the facts of the case and judicial authority. For the avoidance of doubt, this means that the planning merits of the proposed development are not relevant to this appeal and the main issue is whether the Council's decision to refuse to grant a LDC was well founded. In this respect, the burden of proof is on the appellant to show that, on the balance of probability, the development proposed would have been lawful on the date on which the application was made.
12. It is convenient to consider the use of Building 1 and Building 2 separately in the first instance, before then considering the alterations that have been undertaken to Building 2.

Building 1

13. There are two questions relating to the use of Building 1 that are relevant for present purposes: is Building 1 a 'dwelling' and has the use of Building 1 been continuous? It is convenient to consider these two elements separately in the first instance, before drawing them to together in a conclusion.

Is Building 1 a 'dwelling'?

14. There is no definition of the term 'dwellinghouse' in the 1990 Act itself, albeit the definition of a dwellinghouse for the purposes of Class C3 of the Town and Country Planning (Use Classes) Order 1987 (UCO) includes the use as a dwellinghouse (whether or not as a sole or main residence) by a single person or by people to be regarded as forming a single household.
15. It was accepted in *Gravesham BC v SSE & O'Brien* [1983] JPL 306 that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. It was also held in *Gravesham* that whether a building was or was not a "dwelling-house" was a question of fact. Generally, it was held that little turned on any restriction as to the duration or frequency of its use but acknowledged that there well may be cases where that will be relevant.
16. In *Wealden DC v Mitchell* [2017] EWHC 2328 (QB), Mr Justice Holroyde granted an injunction requiring the demolition of a 'hobbit house' on the basis that "there is no merit in the argument that the structure is not a house. It clearly lacks certain amenities generally found in most houses. It is however plainly capable of being used as a dwelling" and the occupant at the time "was so using it."
17. Applying this case law to the facts of this case, Building 1 was formerly a stable block. In his oral evidence, Mr Nicholas Tobutt explained that Building 1 operated as a hatchery for nearly all of the relevant period and that such

activity would have been impossible in the main house. In support of that, Mr Tobutt produced various magazine articles relating to his business.

18. Building 1 is arranged in a 'U' shape with a total of eleven rooms opening onto a central open yard, entrance to which is through an arch-like structure on the north elevation. There is a fully equipped kitchen on the north-west corner of the building and, immediately to the south of that, a bathroom with a toilet, shower and sink. The 'bunk house' at the southern end of the building contained (at the time of my site visit) two single beds and some furniture, together with a TV and a microwave oven. The rooms on either side of the 'bunk house' were being used for storage and as a workshop respectively. The remaining rooms were being used for storage, including for domestic items.
19. It is evident that Building 1 contains all the facilities required for day-to-day private domestic existence. It is therefore technically a dwelling in *Gravesham* terms. I must, however, also have regard to the idiosyncrasies of Building 1 and how those idiosyncrasies dictate the way Building 1 is used as a 'dwelling'.
20. The first of these idiosyncrasies is the layout of the accommodation and/or rooms. For example, the bathroom is physically separate from the 'bunk house'. Consequently, taking a shower and/or using the toilet necessitates venturing out into and crossing the open yard. This is necessary in all weather conditions and at all times of the year. I do recognise that having an external toilet was a standard feature of some residential properties in the past and that there may still be the odd example of residential properties with that arrangement still in occupation today.
21. The same is true of the cooking facilities. Whilst there is a microwave oven in the 'bunk house' which be used for cooking some types of meal, it would still be necessary to use the kitchen to prepare a more substantial meal. That would again necessitate venturing out into and crossing the open yard, irrespective of whether the meal then cooked was consumed in the kitchen or taken back to the 'bunk house' for consumption. It also emerged in evidence that the use of the kitchen in Building 1 is made on occasion by people residing in Building 2, such that the kitchen is not a facility for day-to-day private domestic existence that is exclusive to the occupier of Building 1. That too is a relevant factor.
22. There is nothing in *Gravesham* to suggest that the facilities required for day-to-day private domestic existence must all be under one roof. Nevertheless, as recognised as a possibility in *Gravesham*, this is a situation where the presence of all the facilities required for day-to-day private domestic existence is outweighed by the idiosyncrasies of Building 1 that are required to access those facilities.
23. I am mindful that Lord Mance held in *Welwyn Hatfield BC v SSCLG & Beesley* [2011] UKSC 15 that 'too much stress... [has] been placed on the need for "actual use"...it is more appropriate to look at the matter in the round and to ask what use the building has or of what use it is.' Nevertheless, it does not necessarily follow that a change of use can occur only through physical works. It is settled case law that actual use remains a relevant factor. It is therefore necessary to look at the evidence in the round having regard to the actual/intended use of the building.

24. In the joint Statutory Declaration of Mr Nicholas Alexander Tobutt and Mrs Sylvia Joan Cole Tobutt dated 3 March 2025, it is stated that "Building 1 has been used as a dwelling by Mr Nicholas Alexander Tobutt since prior to 2014 for the purpose of being close to and managing any young and sick animals kept at Churchlands". It subsequently emerged in Mr Tobutt's oral evidence to the Inquiry that the use of Building 1 as a 'dwelling' was for no more than 90 to 100 days in any one calendar year. At all other times, Mr Tobutt's main residence is at the main property known as 2 Churchlands Cottage. That serves as his postal address and all correspondence/ documents use that as his principal address.
25. These documents include those commonly associated with every day life, such as insurance documents and car registrations. All those documents use 2 Churchlands Cottage as Mr Tobutt's main residence and not Building 1. I therefore gained the distinct impression that 2 Churchlands Cottage provides all the facilities required for day-to-day private domestic existence for the Tobutt household, to which Building 1 is incidental and used only when the need arises.
26. Moreover, Building 1 was in use as a hatchery (as required) throughout the relevant period. That in itself is not a facility required for day-to-day private domestic existence dwelling. Indeed, it was Mr Tobutt's own evidence that such activity would have been impossible in the main house. In that context, I am mindful that the *Gravesham* test is in relation to domestic existence: a hatchery does not fall into that category.
27. There is a host of other factors to take into account as well. There was no meaningful evidence of personal items on display in Building 1, such as books or photographs, that would typically be associated with a main residence. There was no dedicated space for relaxation. The building has not been registered for Council tax or as a separate postal address. The building has been used as an overnight guest annex for visitors to the main house.
28. In these senses, Building 1 operates more akin to a residential annexe ancillary to a main dwelling rather than a separate dwelling in its own right. Or perhaps ancillary to the agricultural unit. That is a matter for the Council in the first instance, and it is not necessary for me to reach any firm conclusions on that: it is sufficient for me to find that, on the balance of probabilities, the use of Building 1 is not as a dwellinghouse falling within Use Class C3 of the UCO. In reaching that conclusion, I recognise that the definition of a dwellinghouse in the UCO includes both a sole and main residence but also requires people to be regarded as forming a single household. However, in this case, the single household is formed at 2 Churchlands Cottage and not at Building 1.
29. In summary, when looked at in the round, I conclude that by reason of the combination of the idiosyncrasies of Building 1 that are required to access the facilities required for day-to-day private domestic existence and the actual use to which it is put Building 1 cannot properly be regarded as constituting a dwelling in *Gravesham* terms.

Has the use of Building 1 been continuous?

30. In view of my conclusion above it is not strictly necessary for me to reach a conclusion on this point. However, in the interest of completeness, I shall do so.

31. Under section 191(2) of the 1990 Act, uses and operations are lawful at any time if:
- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
 - (b) they do not constitute a contravention of any of the requirements of an enforcement notice then in force.
32. In this case, there is no enforcement notice in force, such that (b) is not relevant. It is no part of the appellant's case that the change of use of Building 1 does not constitute a material change of use requiring planning permission. The issue is therefore whether, on the date on which the application for the LDC was submitted (12 March 2025), the time for enforcement action has expired.
33. The time limits for taking enforcement action are set out in section 171B of the 1990 Act, as amended by The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024). In respect of the change of use of any building to use as a single dwellinghouse that commenced before 25 April 2024, section 171B (2) of the 1990 Act provides that no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
34. The appellants contend that the (material) change of use of Building 1 to a dwelling took place before 25 April 2024. It follows that to now be lawful pursuant to section 171B (2), the use as a 'dwelling' must have commenced more than 4 years from the date on which the application for the LDC was submitted, such that no enforcement action may now be taken against that use.
35. It was held in *Thurrock BC v SSETR & Holding* [2002] EWCA Civ 226 that a use can only become lawful if it continues throughout the relevant immunity period, such that the local planning authority could have taken enforcement action at any time. It follows from the judgement in *Thurrock* that if a use that is taking place in breach of planning control is ceased, the immunity 'clock' would need to start again.
36. The principles established in *Thurrock* were applied in *Swale BC v FSS & Lee* [2005] EWCA Civ 1568, where it was held that there is a difference between an established dwellinghouse, when an occupier does not have to be continuously or even regularly present in order for the building to remain in use as a dwellinghouse, and where there is no established use. It was held in *Swale* that to be immune from enforcement action under s171B (2), the use of a building as a dwellinghouse must be 'affirmatively established' over the four-year period.
37. The appellants maintain that continuity does not require physical presence, only continuity of use in character. That is broadly consistent with the views of Lord Mance in *Welwyn*. However, the judgements in *Thurrock* and *Swale* are fully on point with the issues in this case and consequently are to be preferred.

In particular, I note the distinction in *Swale* between an established dwellinghouse and, as in this case, where there is no established use.

38. In giving his oral evidence to the Inquiry, Mr Nicholas Tobutt indicated that the use of Building 1 as a 'dwelling' was for no more than 90 to 100 days in any one calendar year. At the very most, that represents less than one third of the days in any one calendar year. It follows that on the remaining days, amounting to more than two thirds of any one calendar year, the Council not could have taken enforcement action for the simple reason that the use was not taking place. Put another way, on more than 2 days out of 3 in any given year the Council would not have able to initiate enforcement action against that use. Moreover, each time that use ceased and Mr Tobutt reverted to living in 2 Churchlands Cottages, the immunity 'clock' would have reset and started again. That pattern would have repeated itself year on year.
39. By applying the principles established in *Thurrock* and in *Swale*, it follows from that evidence alone that the use of Building 1 as a 'dwelling' (if ever that is what it was) did not continue throughout the relevant immunity period, such that the Council could have taken enforcement action at any time. Consequently, on the balance of probabilities, the use of Building 1 as a 'dwelling' could not have become lawful through the passage of time.

Building 2

40. As with Building 1, there are two questions relating to the use of Building 2 that are relevant for present purposes: is Building a dwelling or dwellings, and has the use of Building 2 been continuous? It is convenient to consider these two elements separately in the first instance, before drawing them to together in a conclusion.

Is Building 2 a dwelling?

41. Building 2 is divided into 3 self-contained 'units', to adopt a neutral term.
42. The unit at the northern end is occupied by Mr Charles Tobutt and Ms Emma Fehrenbach. For perfectly understandable reasons I could not gain access to that unit at the time of my site visit. However, as shown in Drawing No. PHA-PL-005 Revision A, the accommodation in that unit comprises a living room, a bedroom, a kitchen, a bathroom, a separate WC and two storage areas. This unit therefore provides all the facilities required for day-to-day private domestic existence, as per *Gravesham*. There is a main entrance in the middle of the unit and a secondary access through one of the storage areas at the northern end of that unit.
43. The unit at the southern end of Building 2 is occupied by Mr Luke De St Croix. I noted on my site visit that the accommodation in that unit comprises a living room/kitchen, a bedroom and a bathroom. This unit therefore provides all the facilities required for day-to-day private domestic existence, as per *Gravesham*. There is a single entrance in the middle of the unit.
44. I was advised at the site visit that the occupant of the middle unit was out at the time, albeit no further details have been provided in evidence about that occupant. Nevertheless, I was able to gain access to the unit and noted that the accommodation comprised a living room/kitchen, a bedroom and a bathroom. This unit also provides all the facilities required for day-to-day

- private domestic existence, as per *Gravesham*. There is again a single entrance in the middle of the unit.
45. Not so the middle unit. As part of the preparation of his evidence, Mr Mew discovered that the middle unit was being used as a holiday home for stays of up to 21 days. His evidence in that respect was supported by detailed evidence in the form of screenshots from booking websites. Moreover, the appellants accepted in cross-examination at the Inquiry that this use has taken place and gave a detailed account of that use, including that guests staying there used the 'professional kitchen' in Building 1.
46. In my view, as a matter of fact and degree, the use of the middle unit of Building 2 as holiday accommodation by paying guests constitutes a use of a different character to the use of a dwellinghouse falling within Use Class C3 of the UCO. For example, the pattern of movements associated with that use is completely different from that typically associated with a dwelling.
47. As with Building 1, it is necessary to consider how the two end units of Building 2 are used in practice. I am content on the evidence provided that both the northern unit and the southern unit are occupied as a single household. However, it is necessary to go on to consider how these units are occupied.
48. Firstly, there is no evidence that Mr Charles Tobutt and Ms Emma Fehrenbach pay rent. The unit does not have separate postal address and is not registered for Council Tax purposes. In giving his oral evidence to the Inquiry, Mr Charles Tobutt confirmed that Building 2 is not cited as the address in the registration for critical documents such as car insurance: instead, this is registered to the main dwelling at 2 Churchlands Cottage.
49. There is some evidence that Mr Luke De St Croix does pay rent for his occupation of the unit at the southern end of Building 2 but does not appear to pay Council tax. Furthermore, that unit is also not cited as the address for the registration for critical documents (such as car insurance) and does not have its own postal address, with post being delivered to the main dwelling.
50. In terms of Building 2 as a whole, it has very limited direct access to the public highway for vehicular access and does not front onto the highway. Furthermore, I am inclined to accept Ms Turland's evidence that pedestrian access to Building 2 has recently been enhanced. Her clear recollection from a site visit she made on 13 June 2025 was that access to Building 2 was gained by passing through Building 1. It was also her evidence that the path that existed at the time of my site visit was not present at the time of her previous visit to the site. Careful analysis of a photograph taken by Ms Turland on that earlier site visit shows an area of grass at the side of Building 1, which tends to corroborate her evidence that access was previously only possible through Building 1 and that the path was added later on.
51. All the above leads me to the conclusion that Building 2 is not, in whole or in any part, a dwellinghouse that falls within the Use Class C3 of the UCO. In that respect, I concur with the professional judgments of Ms Turland and Mr Mew that Building 2 functions as an annex to the main house at 2 Churchlands Cottage. The only potential exception to that may be the middle unit, for which the evidence tends to suggest is used for holiday accommodation. However, that is again a matter for the Council in the first instance, and I do not need to reach a conclusion on the exact use of that unit.

52. For present purposes, it is sufficient to say here that on the balance of probabilities and on the evidence now before me I cannot grant a LDC for the use of Building 2 as a whole for a dwellinghouse falling within Use Class C3 of the UCO. Furthermore, whilst section 195(2) of the 1990 Act provides that an Inspector may issue a split decision where appropriate, in this case on the evidence that is before me I am not minded to grant a LDC for the use of any part of Building 2 as C3 dwellinghouse.

Continuity of the use

53. In view of my conclusion above it is again not strictly necessary for me to reach a conclusion on this point. However, the appellant's evidence does not even come close to demonstrating that the use of either the northern or the southern units of Building 2 have been used continuously in the terms of *Thurrock* and *Swale*. Indeed, the only evidence regarding separating metering and utilities only dates back as far as 2023 at the earliest. This in itself is not sufficient to demonstrate continuous use over the whole duration of the relevant immunity period.
54. Moreover, the absence of any documentary evidence of continuity of use is symptomatic of the building not being used as a self-contained dwelling, for which it might be expected that evidence of continuous use would be readily available: for example, rental records, Council tax records and utility bills. The absence of this evidence tends to reinforce my conclusion that Building 2 is used as an annex to the main house at 2 Churchlands Cottage rather than as a dwellinghouse falling within Use Class C3 of the UCO.

The alterations to Building 2

55. The alterations claimed to have been made to Building 2 are not described in detail anywhere in the appellant's evidence. The appellants have provided me with a detailed elevation of Building 2 as existing (Drawing No. PHA-PL-005 Revision A) but not with detailed drawings of the building as it stood immediately before the alterations were carried out. No comparative 'before & after' drawing has been provided to show the extent of the alterations undertaken. There was one aerial photograph attached to the Statutory Declaration that shows Building 2 prior to the works being carried out but that aerial photograph is not dated. It is therefore of no evidential value whatsoever.
56. Moreover, no dated photographs showing the building operations in progress were submitted with the application or in evidence for this appeal, and similarly no dated photographs of the completed building operations have been submitted. Furthermore, I have not been provided with any evidence relating to the building operations that were undertaken: for example, no dated invoices were submitted for materials used and no statements/testimonies were submitted from the contractors who carried out the works.
57. It is possible to discern in the aerial photographs provided in the Council's Statement of Case that the overall shape of Building 2 changed noticeably between 2018 and 2021. It is evident from these photographs that the building as it stood in 2018 was a long, thin and elongated structure with no protruding elements. By 2021 this had changed, with the main part of the building becoming wider and by then featuring several protruding elements, particularly at the northern end. It is reasonable to conclude that these are the alterations referred to by the appellants.

58. But that is the extent of the evidence available to me. On the basis of that evidence, I am satisfied on the balance of probability that alterations to Building 2 were largely undertaken at some point between 2018 and 2021. The question then becomes when, or if, those building operations were substantially completed.
59. The phrase 'substantially completed' must be taken as having the meaning established by Lord Hobhouse in *Sage v SSETR & Maidstone BC* [2003] UKHL 22: in the case of building operations, what is required is 'a fully detailed building of a certain character'. The House of Lords held in *Sage* that the exception to development at Section 55(2)(a) of the 1990 Act applied only to a completed building. In so doing, the House of Lords rejected the findings of the lower courts that operations and other works which do not amount to development are not to be taken into account in deciding whether there has been a substantial completion for the purposes of Section 171B(1) of the 1990 Act. Instead, the House of Lords preferred a holistic approach in which, where planning consent is made for permission (deemed or otherwise) for a single operation, it is made in respect of the whole of the building operation.
60. It follows from *Sage* that a building could not be regarded as being substantially complete for the purposes of Section 171B (1) even if the outstanding works affected only the interior.
61. The evidence that is before me is simply not sufficiently precise to reach an informed view as to whether those building operations are now 'substantially complete' and, if so, when they were substantially completed. On the limited evidence that is before me, the building operations could potentially have been substantially completed at any point between 2018 and 2021 or possibly at some unknown point later than that. On the evidence before me, or rather the lack of it, it is also entirely possible that the building operations have never been substantially completed in *Sage* terms. As such, in the absence of detailed evidence I cannot reach an informed view as to whether the alterations carried out are now lawful for the purposes of section 171B (1) of the 1990 Act.

Accordingly, due the absence of evidence, I have no option other than to conclude that on the balance of probability the alterations to Building 2 would not have been lawful on the date on which the application was made.

Conclusion

62. The appellants place much reliance on the principle set out in *Gabbittas v SSE & Newham BC* [1985] JPL 630 7. However, this is not a situation where the local planning authority has no evidence of its own to contradict that of the appellants or make their version of events less than probable: for example, the use of Building 2 as holiday accommodation. On the contrary, I find that the appellants' evidence is not sufficiently precise to counter the documentary evidence produced by the Council. In other areas, such as the use of Building 1 by Mr Nicholas Tobutt, the appellants' evidence alone (as initially submitted) was simply not sufficiently precise on its to demonstrate the lawfulness of the use and then did not survive testing through cross-examination.
63. 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 2 permanent structures for C3 residential use as single dwellinghouse, providing one C3

residential unit in Building 1 and 3 C3 residential units in Building 2, with alterations undertaken to Building 2 at Land south of 2 Churchlands Cottage, Village Road, Kirdord, West Sussex RH14 0LU 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.

Formal Decision

64. The appeal is dismissed.

Paul Freer
INSPECTOR

APPERANCES

For the appellants

Mr Ryan Saunders MA, Head of Planning and Rural Surveying at Henry Adams Planning, acting both as advocate and witness

He called:

Mr Nicholas Tobutt	Appellant
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Mrs Sylvia Tobutt	Appellant
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Mr Charles Tobutt	
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Mr Luke De St Croix	
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For the Local Planning Authority

Mr Joseph Thomas	Of Counsel
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He called:

Ms Miruna Turland BSc (Hons)	Assistant Planning Officer
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Mr Martin Mew MSc MRTPI (Licentiate)	Principal Planning Officer
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Documents submitted at the Inquiry

- 1/ Various magazine articles relating to Mr Tobutt's business.
- 2/ Closing submissions on behalf of the Local Planning Authority.
- 3/ Closing submissions on behalf of the Appellants.