



Appeal Decision

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09th February 2026

Appeal Ref: APP/J2210/X/25/3373078

17 Hollow Street, Chislet, Kent CT3 4DS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Paul McCleave against the decision of Canterbury City Council.
 - The application ref CA/25/01287, dated 19 July 2025, was refused by notice dated 10 September 2025.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is existing use of building and land as residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the use for which an LDC is sought from the appeal form, which has been completed by the appellant, as this is more concise and coherent than that provided in the application form.
3. I have not carried out a site visit as this would not affect my decision.

Main Issue

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

Reasons

5. The onus is on the appellant to make out their case to the standard of the balance of probabilities. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
6. A timeline of events has been provided in support of the appellant's case. It is undetailed and makes various unsupported claims. For example, I have not been provided with evidence to show, on the balance of probabilities, that the land has been in residential use since prior to 1963, or that the appellant, Andrew Grubb, or any family members have lived on the land continuously since 1979.
7. I have been referred to planning permissions said to have been granted prior to 1947 and in 1980, a 1995/1997 'court quashing order', and a 'ceremonial consent' dated 4 August 2025, but evidence has not been provided to show any of these exist, or what they may have authorised. Furthermore, evidence has not been provided to support claims that the Council has engaged in any fraud, conspiracy, or procedural abuse.

8. The Council's reason for refusing to issue an LDC refers to an enforcement notice dated 16 December 2004¹. This notice relates to the erection of structures at the site and requires their demolition, the removal of resulting waste, and the restoration of land to its former condition. The notice does not attack any material change in the use of the land, and it does not require the cessation of any residential use. I therefore fail to see how an existing residential use of the site would be in breach of the notice.
9. There is a complicated planning history to the site and reference has been made to other enforcement action being taken and a demolition order. The full details of that planning and enforcement history are not before me, despite both parties being given ample opportunities to submit their full cases in accordance with the written representations timetable set out in the appeal start letter.
10. Section 57(4) of the Act states that where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out. However, it remains unclear as to what the lawful or previous use of the site was prior to any enforcement notice being issued.
11. The appellant has not therefore provided sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that an LDC should be granted for any existing use. It remains open to the appellant to submit further applications for LDCs accompanied by additional evidence relevant to any claims being made. I am not therefore complicit in any claimed perpetuating injustice by refusing to issue an LDC on the limited evidence provided.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of an existing use of building and land as residential is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

L Douglas

INSPECTOR

¹ The Council's ref ENF/04/00398