



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2026

Appeal Ref: APP/L3625/X/25/3358952

Garage Block, Cavendish Road, Redhill, Surrey RH1 4AL

- 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 Love Jesus Fund against the decision of Reigate and Banstead Borough Council.
 - The application ref 24/00848/CLE, dated 7 May 2024, was refused by notice dated 11 October 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which an LDC is sought is builder's yard for building related materials (e.g. sand, earth, bricks, timber, etc.), equipment (e.g. tools, machines, etc) and vehicles (e.g. cars and commercial vehicles, etc).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. The Appellant, to be successful, must have submitted sufficient precise and unambiguous evidence to demonstrate, on the balance of probability, that the use as a builder's yard subsisted continuously for, in this case, the ten year period prior to the date of the application; the ten year period being 7 May 2014 to 7 May 2024.
4. The appeal site is triangular with a north frontage to Cavendish Road. On the east side of the site are two adjoining garages and on the west side of the site are four adjoining garages, and between the two blocks of flat roofed garages is a flat open area. Mr J McMenamin has made a Statutory Declaration, dated 3 May 2024, in which he states that "...I have used the approximately triangular shaped plot of land...as a Builder's Yard continuously for more than the past 10 years...for my business Chatwin Construction Limited". Mr McMenamin's signature and that of the Solicitor who witnessed the document were redacted before the Declaration was submitted. The document, therefore, is afforded no more weight than an unsigned letter.
5. Submitted in evidence are a bundle of dated photographs and an appeal statement which contains some undated photographs. The only photograph of the interior of a garage is undated and shows, through a partially open door, discarded items such as planks and fluorescent tubes. Another undated photograph of the same garage shows the garage door to be in a seriously dilapidated state and to be blocked by a pile of sand partially covered in blown leaves. It is also possible to see in this

photograph that the roof over the garage has fallen in. Two other undated photographs, almost certainly also taken at the same time, show discarded waste building materials across the rear of the site.

6. The six undated photographs in the appeal statement were probably taken at the same time for the purposes of the statement. They probably postdate the ten year period but have been submitted to show how the site has been used. Access to two of the garages would not have been possible because there were planks secured across the door openings, and access to the other four garages would not have been possible because of dumped building waste on the flat area. The earliest dated photograph within the ten year period is from June 2014 and shows overgrown building waste on the flat area, and two photographs of April 2023 show the flat area to be covered by piles of building sand preventing access to all six garages.

7. One of the photographs of April 2023 shows the two garages secured by planks and shows blue tarpaulins on the roof of the four garage block, which is an indication of its thoroughly dilapidated condition at that time. Three photographs of April 2024 show the front part of the flat area to be cleared but there was access to only three garages at that time. That the front part of the site was cleared is probably because Chatwin Construction Limited placed an order for a 'Grab Load Muck Away 8 Wheeler' which came to the site on 1 March 2024; an invoice for the order dated 18 March 2024 is in evidence. Also in evidence are two invoices dated 30 April 2023 and 30 June 2023 for the same order.

8. The evidence submitted shows an unsecured site where the six garages have been in an increasingly dilapidated state and the open area to be principally used for the dumping of building waste. The garages have probably not been, at any time and because of their state and blocked access, used for the storage of valuable tools and equipment and building materials to be used in construction projects. Evidence indicates that the site has been intermittently used for the dumping of building waste and, possibly, for the storage of sand.

9. There is no evidence of regular use for the many activities associated with a builder's yard. A builder's yard is a place of activity, particularly at the beginning and end of a working day, and is where tools, equipment and materials are securely stored. Mr McMenamin, in his unsigned letter, claims "...continual usage as a Builder's Yard throughout this period has included the delivery, storage and collection of and operations relating to building and construction business related materials, vehicles, equipment and items". There is no evidence to indicate that the appeal site has been used in this way. The appeal site has been used, at best, for the insecure storage of, principally, building waste. The evidence submitted does not demonstrate, on the balance of probability, that the use as a builder's yard has subsisted continuously for the ten year period prior to the date of the application.

10. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for 'builder's yard for building related materials (e.g. sand, earth, bricks, timber, etc.), equipment (e.g. tools, machines, etc) and vehicles (e.g. cars and commercial vehicles, etc)' at Garage Block, Cavendish Road, Redhill, Surrey was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite Inspector