



Appeal Decision

Site visit held on 20 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: 24 February 2026

Appeal Ref: L3815/X/25/3371010

The Forge, Oak Lane, Shillinglee, Plaistow, Godalming, West Sussex GU8 4SQ

- 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 Paul Hayward against the decision of Chichester District Council.
 - The application Ref PS/25/00052/ELD, dated 10 January 2025, was refused by notice dated 5 March 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 siting and use of (storage and business) of an outbuilding/shed for more than 10 years.
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Summary Decision: the appeal is dismissed

Procedural Matters

1. I have taken the address to which the appeal relates from the Council's Decision Notice, which corresponds to the address given on the application form. The Appeal Form describes the address as being Land to the north of the Coach House but in my view the address given on the application form and on the Council's Decision Notice more accurately describes the site address.

Reasons

2. Section 191(4) 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.

3. In order to succeed, the appellant must show that the use claimed commenced more than 10 years before the date on which the LDC application was submitted (the relevant date in this case therefore being 10 January 2015) and continued without interruption until the date on which the LDC application was submitted. The relevant test in that respect is on the balance of probability.
4. In relation to an 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. In this case, the use for the LDC sought is described simply as 'storage and business'.
5. This begs the obvious question: storage of what? And for what purpose? Are the storage and business components of the use entirely separate, such that each would fall into a separate Use Class for the purposes of the Town and Country Planning (Use Classes) Order 1987 and the use would be a mixed use. Or are the storage and business components linked, in which case the use would be a *sui generis* use? The evidence before me is simply not precise enough to enable me to form an informed opinion on any of these questions. In the absence of that evidence, the guidance in the PPG is that a LDC cannot be granted.
6. The same uncertainty applies to the business component of the use. What type of business is it? Is it a storage business? What are the characteristics of the business? Given that a 'business' use could potentially have wide and varied characteristics, with very different environmental impacts, it would not be appropriate to grant a LDC for simply a 'business' use. That would similarly not accord with the precision required by the PPG.
7. It is no answer to say that the building has been on site for many years and must have been used for something. That is axiomatically the case. Nonetheless, it is incumbent upon the appellant to show, on the balance of probability, (a) precisely what that use has been and (b) through evidence that that precise use has been carried out continuously for a period of at least ten years. The appellant has manifestly failed to do that.
8. In view of these findings, there is no merit in considering in detail the photographic and other evidence the appellant has provided. Doing so would not change the outcome. There is, however, one observation that I feel compelled to make.
9. In dismissing an appeal in relation to an application to rebuild The Forge to the same dimensions as it is currently, the Inspector rejected the appellant's claims to have used 'the site' for multiple business purposes for the last 31 years (APP/L3815/X/24/3338633). The reasoning behind the Inspector's rejection of the appellant's evidence was that no substantive evidence of the described mixed use had been provided to demonstrate that such a use has existed for at least 10 years. The Inspector went on to find that the Google Earth aerial photographs submitted did not show the precise uses of The Forge or the land on which it sits, simply because they are not sufficiently detailed in that they only provide distant views of the land.
10. As the Council points out, the appellant has provided the same aerial and photographic evidence in relation to this application/appeal as it did with the previous application/appeal. Although not expressly stated in his Decision, the

previous Inspector was duty bound to have regard to the same guidance in the PPG that I have done. In the event, I did not have to consider that evidence in detail. Nevertheless, even from a cursory look at that evidence, it was obvious to me that it lacked the detail, precision and substance to show that, on the balance of probabilities, the claimed use had been taking place continuously for the previous ten years.

11. The PPG advises that an appellant may at the risk of costs if the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period. That is the case here and in that respect the appellant has behaved unreasonably in the terms set out in the PPG. I did seriously consider initiating an award of costs against the appellant in this respect. However, given that the appellant is neither legally nor professionally represented, on this occasion I decided not take that course of action.
12. This is not a situation where the local planning authority has evidence of its own to contradict that of the appellant or make his version of events less than probable. However, I find that the appellant's evidence is not sufficiently precise and unambiguous on its own to show that what the claimed use actually is and whether that use has been taking place continuously throughout the relevant period. Accordingly, I conclude that, on the balance of probability, the siting and use of (storage and business) of an outbuilding/shed for more than 10 years has not been shown to have been lawful on the date on which the application was made.

Conclusion

13. In relation to LDCs, the PPG states in terms that:

"The applicant is responsible for providing sufficient information to support an application"

14. In this case, the evidence provided by the appellant is not sufficiently precise and unambiguous on its own to show that the claimed use was lawful on the date that the LDC application was made. The appellant has not discharged the burden that falls upon him.
15. 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 siting and use of (storage and business) of an outbuilding/shed for more than 10 years at The Forge, Oak Lane, Shillinglee, Plaistow, Godalming, West Sussex GU8 4SQ 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

16. The appeal is dismissed.

Paul Freer
INSPECTOR