



Appeal Decision

Site visit made on 3 February 2026

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date 24 February 2026

Appeal Ref: APP/G1630/X/25/3363565

Commercial Barn, Middle Farm, Stanley Pontlarge, Winchcombe, Gloucestershire GL54 5HE

- 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.
 - The appeal is made by Mr Nick Williams against the decision of Tewkesbury Borough Council.
 - The application ref 24/00869/CLE, dated 16 October 2024, was refused by notice dated 14 February 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
 - The use for which a certificate of lawful use or development is sought is to confirm the lawful use of an agricultural barn as a residential dwelling (class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Section 191(4) of the 1990 Act states that if the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
3. The onus of proof is firmly upon the applicant (now appellant) to make their case. If a local planning authority has no evidence to contradict the appellant's version of events or make it less than probable, there is no reason to refuse the application, provided the evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
4. Section s191(1)(a) of the 1990 Act sets out three matters for which an LDC application may be made to ascertain whether they are lawful. These matters are, in short, (a) any existing use of buildings or other land; (b) any operations which have been carried out in, on, over or under land; and (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted.
5. Section 191(2) of the 1990 Act informs that:

'For the purposes of this 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 any enforcement notice then in force’.
6. Section 171B of the 1990 Act specifies the timescales within which enforcement action must be taken. Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach. Thus, for an LDC to be awarded it is necessary for the appellant to show that the use sought has occurred without significant interruption for 10 years, starting on or before 16 October 2014.
7. For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision is based strictly on factual evidence, the history and planning status of the site and the application of relevant law or judicial authority to the circumstances of the case.

Main Issue

8. The main issue is whether the Council’s decision to refuse a certificate of lawful existing use was well-founded. This turns on whether the use of the former agricultural barn as a residential dwelling has subsisted for a continuous period of at least 10 years prior to the date of the application, without any material interruption or intervening use.

Reasons

9. The appeal relates to a former agricultural barn located centrally within a wider complex of agricultural buildings, some of which have been converted for residential purposes, and a farmhouse. Some of the buildings within the group are in use as holiday accommodation. The complex is referred to both as Middle Farm and Middle Stanley Farm. It lies within the countryside, surrounded by agricultural land.
10. In support of the claim, Statutory Declarations, extracts from the Electoral Roll, photographs, energy usage data, an invoice for kerosene, an invoice for glazing works to supply and fit glass to wooden French doors, and documentation relating to the purchase of a new kitchen have been provided.
11. A Statutory Declaration dated 23 September 2024 and signed by the appellant, states, among other things, that the appeal building was converted to a dwelling in 2007. It records that the appellant’s parents resided at the property from 2009 until 2019, and that the appellant and his wife then occupied it as their sole and primary residence from January 2019 onwards.
12. Electoral Register information supplied by the Council indicates that the appellant was registered at Thimble Cottage, Stanley Pontlarge (a property within the complex), between 2006 and October 2019, and at Middle Farm thereafter. The appellant’s wife is registered at Middle Farm from March 2015. The appellant’s parents appear on records for the wider Middle Stanley site prior to 2009.
13. A screenshot dated 18 March 2025 from 192.com shows several individuals with the surname Williams listed at Middle Farm. A record for “Nicholas C Williams”

appears in 2005 and between 2008–2011, and “Nicholas C M Williams” between 2014–2025. The appellant’s parents are listed in this data for the years 2005, 2009/10-2011 and 2014-2022. While there is no listing for Mrs L Williams, the appellant’s wife, a data request from the Council shows that Mrs L Williams held an entry at Middle Farm from March 2015 to 2025 (most up-to-date record).

14. The Electoral Roll evidence demonstrates general residence within the wider Middle Farm site but does not identify which building within the complex each individual occupied. The lack of a building-specific address limits the evidential value of these listings. Furthermore, despite the appellant’s assertion that his parents occupied the appeal property from 2009 to 2019, limited corroborating evidence has been provided to substantiate this claim.
15. A Statutory Declaration dated 25 September 2024 signed by a builder states that conversion works were completed in 2009 and that the building was fitted with all necessary facilities for permanent living. They further state that the property has been in continuous residential use since that time. Another Statutory Declaration dated 25 September 2024, provided by a cleaner, confirms that they have been cleaning the building since 2009 and have observed it in what they describe as continuous residential use, evidenced by personal belongings, furniture, and daily household activity. While the declarations provide information relevant to the requisite period, they are not solicitor-witnessed and therefore carry limited weight.
16. Photographs have been provided depicting internal rooms, some of which correspond with what was observed during my site visit. Two images dated 6 and 16 November 2016 appear to show the kitchen of the appeal building. However, there is no explanation regarding the identity of the individuals pictured or their relationship to the property. Other photographs dated January 2014, November 2015, December 2015 and January 2018 depict groups of people, including children, but it is unclear whether these images were taken inside the appeal property and there is no reference to who these people are or their relationship with the appeal building. As a result, these photographs carry limited evidential weight to support the claim of residential use for the requisite period.
17. Energy usage data covering the period from 2014 to 2021 is provided covering buildings labelled Main House, Stone Barn, Elmbury and Havanna Club. Notwithstanding that the appeal building is referred to as Stone Barn rather than the name on the application form, the data as presented provides limited insight into the use of the buildings in the complex and how the figures support the claimed use of the appeal building. While the appellant considers that they show a usage that would be comparable to continual occupation throughout the year, there is no breakdown of these figures to explain how they support the appellant’s contention. Furthermore, the readings do not cover the requisite period of up to 10 years.
18. A utility invoice from Cotswold Petroleum (dated 4 May 2018) confirms the supply of kerosene to Middle Stanley Farm and a service invoice from Cheltenham Glass and Glazing (dated 28 February 2017) references work carried out on French doors at Middle Stanley. The kerosene invoice is addressed to Middle Stanley Farm, but does not indicate which building the fuel served. Similarly, the invoice for glazing does not specify that the works were undertaken at the appeal property rather than another unit within the complex. While fuel supply evidence may

inherently be general to a wider site, more detailed supporting documentation could have been provided to substantiate the appellant's case.

19. A financial statement covering October 2020 to December 2021 shows payments made for a new kitchen. The account is addressed to Middle Farm but there is no information provided to support the assertion that the kitchen was installed in the appeal building. Furthermore, the kitchen visible in photographs from 2016 appears largely identical to the kitchen seen during my visit, further limiting the evidential value of this material.
20. The Council states that Council Tax records indicate that the main house is used as the principal residence and that other buildings are rated for business use, with no record of the appellant being registered at the appeal property. While a lack of Council Tax payment does not necessarily demonstrate non-residential occupation, when considered alongside the inconsistencies and gaps in the appellant's evidence, it does not strengthen the claim.
21. Notwithstanding this, additional uncertainty arises from the wider commercial operations at Middle Stanley Farm with the site being registered for commercial waste, and as a commercial Holiday Let Enterprise registered for business rates. I also note that the appellant's letter accompanying the planning application refers to two buildings being used as commercial holiday lets. However, this does not align with the advertisement for the site which shows three properties available to rent, alongside function/meeting rooms, a bar and social rooms for business activities, and the appellant's annotated aerial image which identifies three buildings used as holiday lets. There is also inconsistency and ambiguity surrounding the name of the building - Stone Barn, Commercial Barn, Middle Farm - all of which have been used in relation to the appeal building.
22. Overall, as a matter of fact and degree, I find that the evidence presented is not sufficiently precise or unambiguous to demonstrate, on the balance of probabilities, continuous residential occupation of the appeal building for the required period. The use therefore fails to meet the requirements for immunity from enforcement action under s191(2) of the 1990 Act. As the information provided does not fully substantiate the claim, a certificate for lawful use as sought by the application cannot be issued.
23. Should the appellant obtain more robust and comprehensive evidence, it would remain open to them to submit a further application, which the Council would then be required to assess on its merits.

Conclusion

24. For the reasons given, I conclude that on the available evidence, the Council's refusal to grant an LDC for the lawful use of an agricultural barn as a residential dwelling (class C3) was well-founded and that the appeal cannot succeed. I will exercise accordingly the powers transferred to me in s195(3) of the 1990 Act as amended.

S A Hanson

INSPECTOR