



Appeal Decisions

Site visit made on 2 February 2026

By Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date 06 March 2026

Building south of Little Willow, Hunston Road, Hunston, West Sussex PO20 1NP

Appeal A Ref: APP/L3815/C/24/3346106

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- The appeal is made by Mr James Sullivan against an enforcement notice issued by Chichester District Council.
- The notice was issued on 1 May 2024.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Building to use as a dwellinghouse.
- The requirements of the notice are to:
 - (i) Cease the use of the Building as a dwellinghouse.
 - (ii) Remove the kitchen units and cooking facilities from the Building.
 - (iii) Remove all domestic furnishings from the Building including beds, tables and chairs and soft furnishings; and
 - (iv) Remove the double glazed UPVC windows and doors from the Building.
- The period for compliance with the requirements is: 8 months.
- The appeal is proceeding on the ground set out in section 174(2)(d) of the Act.

Summary Decision: The appeal is dismissed; the enforcement notice is upheld.

Appeal B Ref: APP/L3815/X/24/3345953

- The appeal is made under section 195 of the Act against a refusal to grant a certificate of lawful use or development.
- The appeal is made by Mr James Sullivan against the decision of Chichester District Council.
- The application ref HN/24/00735/ELD, dated 23 March 2024, was refused by notice dated 7 June 2024.
- 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 change of use of building to 1 no. dwelling.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. There are two appeals made by the same appellant about the same building on the same land and the same development. The main parties have submitted essentially the same evidence for each appeal. The nub of the matter in dispute in each appeal is, in essence, the same and is common ground – whether the material change of use of the building to a dwellinghouse is lawful development. I have therefore considered both appeals together, except where otherwise stated.

Appeal A on ground (d) and Appeal B

2. In Appeal A, the main issue is if when the notice was issued it was too late to take enforcement action against the material change of use of the building to a dwellinghouse. The relevant period here is 4 years prior to the date of the

enforcement notice, issued on 1 May 2024, and the latest relevant date for when the material change of use must have taken place is by 1 May 2020.

3. In Appeal B, the main issue is whether the Council's decision to refuse the application for a lawful development certificate was well-founded. The application was to ascertain whether the material change of use of the building to a dwellinghouse was lawful at the date of the application, which was 23 March 2024. The relevant period here is 4-years prior to this date and the latest relevant date for when the material change of use must have taken place is by 23 March 2020.
4. For either appeal to succeed, the onus is firmly on the appellant to demonstrate, on the balance of probabilities, that no enforcement action could have been taken against the material change of use of the building to a dwellinghouse at the relevant date because the time for taking enforcement action had expired.
5. The appellant's statutory declaration includes that he acquired the building from his mother in February 2021 and lived in it continuously with his wife and two children since October 2022, including some photographs of this use taken after October 2022. The appellant says the building has been converted, including insulation, plasterboard and plastering to the walls, installation of a kitchen and bathroom and electrical and plumbing work and heated by electrical radiators. But he does not specifically say converted to what, or when, to substantiate what he claims to have been the start and continuity of use of the building as a single residential dwelling.
6. His mother's statutory declaration sets out that in October and November 2019 she instructed a builder to convert the building to provide habitable accommodation. This is said to have included the same works outlined by the appellant, though also a septic tank installed outside, not mentioned by the appellant. The builder's statutory declaration refers to being instructed to carry out these same works but not a septic tank. Neither the appellant's mother or the builder say when these conversion works were actually carried out, or if they applied to all of the building, and there is no sales order, invoice, schedule of works or record of payment. The appellant's mother says a tenant moved into the building in December 2019 and occupied it as his sole residential dwelling, paying a monthly rent of £400. It is not said if the tenant occupied part of all of the building.
7. The tenant's statutory declaration claims he lived in the building as his sole residence between December 2019 and September 2022, though not if he occupied some or all of it. Because of alternating use of present and past tense, it is not clear to me if a bedroom, bathroom, kitchen, insulation, plastering and heating is as the building was from the outset when he lived in it, or as it is now including since the appellant started to live in it, or that they came into being at different times when he lived in it; which if they did, he does not say when.
8. There is no evidence of a formal tenancy agreement between December 2019 and February 2021 when the appellant's mother owned the building or between February 2021 and September 2022, after the appellant acquired the building and before he lived in it. If these were verbal arrangements, there is little evidence about how rent was paid, such as bank statements or even a receipt book if it was cash in hand. There is then little evidence of utility bills, such as electricity or water, or how they were apportioned and paid during the tenant's occupation, including no post addressed to him at the building over a period of nearly 3 years.

9. The statutory declaration by a neighbour does not say how often he cut hedges or undertook other ground works near the building, or if he continued to do so after October 2022, and does not say when the tenant ceased occupation of the building. Nor does the neighbour live 'opposite' the building, but further south along the other side of Hunston Road. It appeared to me that observation of the building from the ground floor of Spring Cottage, where he lived, would be restricted by intervening planting and from the upper floor by a tight angle of view or appreciable distance.
10. The statutory declarations by the appellant's mother, the builder, the tenant and the neighbour then refer to 'modifications' or 'improvements' to the building claimed to have been carried out by the builder in Spring and Summer 2022, after the appellant acquired the building but before he and his family lived in it from October 2022. This included replacement of barn doors with a single pedestrian door, replacement of the kitchen and bathroom with updated sanitary ware and units and redecorating internally.
11. These works are said to have been instructed by the appellant yet are not specifically mentioned in his own statutory declaration, not least to distinguish these from some similar works said to have been done in 2019. Nor is there any sales order, invoice, schedule of works or record of payment. I have not been informed when they were actually done or how long it took and if this was less than all of Spring and Summer 2022. Given the fundamental nature or extent of some of these works, there is little to explain how the tenant continued to live in the building meantime, such as toilet, cooking and bath/shower arrangements or to relax given the relatively small internal space.
12. As legal instruments, statutory declarations are important evidential documents, in this case supported with some internal photographs of the building. Relevant caselaw means that the appellant's evidence does not necessarily need to be corroborated by independent evidence to be accepted¹. But apparent pro forma repetition, with imprecision and ambiguity, diminish the weight of the statutory declarations, including that photographs do not originate from the relevant dates or over the entire relevant periods. The aerial photographs provide little assistance either way about what was going on inside the building.
13. While there is no definition of a 'dwellinghouse' in the Act, the inconsistencies and omissions outlined above cast significant doubt in my mind. Moreover, relevant caselaw has established that the distinctive characteristic of a dwellinghouse is its ability to afford those who used it the facilities required for day-to-day private domestic existence². Whether the building was capable of being used as a dwellinghouse is largely a matter of fact and degree.
14. The Council refer to a Preliminary Ecological Assessment (PEA) that included the building, dated September 2021³. The appellant suggests the ecologist gained an impression of the use of the building from external observation and it had the outward appearance of a storage building in connection with the equestrian stable yard. But the extract from the PEA provided is, on the face of it, unequivocal – 'All [*three main buildings on the site*] were in use as stables and for storage of materials'. This was at a time when the appellant and others say the building had

¹ *Gabbitts v SSE & Newham LBC* (1985) JPL 630

² *Gravesham BC v SSE* [1983] JPL 307; [1984] 47 P&CR 142.

³ Submitted in planning application 21/03138/FUL for development of adjoining land as a private gypsy and traveller caravan site.

been converted to habitable accommodation and was lived in by the tenant. Considering that the scope of a PEA includes to establish the ecological potential of a site, including for example use of buildings by bats, there is no apparent reason why the ecologist, as a competent person, would have made assumptions or not made an internal inspection.

15. Notwithstanding this, some or all of the building may have been converted by the internal works implied by the appellant and others to have been carried out by November 2019. As such, it could still have retained an outward appearance of a barn and the tenant could have subsisted in this habitable accommodation from December 2019 as his sole residence. But that does not necessarily mean the building was a dwellinghouse.
16. The Council's Google Streetview images include that by March 2021 the building still had a pair of large barn doors in one side and a large roller shutter door had been purposefully installed by June 2022 in one end of it. On the face of it, these doors were suitable for equipment or machinery to access the inside of the building or be stored in it. But this was also when the tenant is said to have been living in the building. The roller shutter door and its purpose is not mentioned in any of the statutory declarations. There is little to suggest that any of these doors were conducive to dwellinghouse use of the building, such as to maintain internal temperature, avoid wind or rain ingress when opened and to give convenient entry and exit for the tenant.
17. The Council therefore has some evidence of its own which is sufficiently compelling to contradict and make the appellant's version of events less, rather than more likely. It is also not clear to me how the tenant could have practically sustained his occupation between the extensive Spring and Summer 2022 internal and external works, over a period of up to 6 months or so. In which case, there was more than a short gap in order to establish better living conditions in all of the building than what the tenant may have been content with in part or all of it, but evidently not considered satisfactory by the appellant for occupation with his family.
18. Furthermore, none of the statutory declarations refer to installation of the UPVC double glazed windows, a single door and a pair of French Doors that I saw in the building for the main habitable rooms. Even if this fenestration was part of the modifications or improvements to the building in Spring and Summer 2022, there is little to suggest that it was present from December 2019. A pedestrian door for convenient entry and egress or to prevent ingress of inclement weather is usually a normal expectation for a dwellinghouse. So too is windows for outlook, ventilation or natural light and the well-being of those who occupy a dwellinghouse.
19. There is, therefore, little to counter that it is more likely than not that the building did not provide all of the necessary viable facilities for living, thus it was not a dwellinghouse and not continuously occupied as such, until after the Spring or Summer 2022 works were completed.
20. That the building was (perhaps unsurprisingly) not registered for Council Tax or other Council services such as refuse collection, and even if the appellant was already registered for Council Tax in a mobile home nearby, these are not determinative factors either way. Nor is absence of apparent domestic use and activity outside the building.

Conclusions

21. In Appeal A, the appellant has not, therefore, as a matter of fact and degree demonstrated on the balance of probabilities that the material change of use of the building to a dwellinghouse had taken place by 1 May 2020 or had continued for the relevant 4 year period, so was not immune from enforcement action due to the passage of time. Consequently, when the notice was issued enforcement action could have been taken in respect of this breach of planning control. As a result, Appeal A on ground (d) fails.
22. In Appeal B, the appellant has not, therefore, as a matter of fact and degree demonstrated on the balance of probabilities that the material change of use of the building to a dwellinghouse had taken place by 23 March 2020 or had continued for the relevant 4 year period, so was not immune from enforcement action due to the passage of time. On the evidence now available, I am satisfied that the Council's decision to refuse the application for a lawful development certificate was well-founded. Accordingly, Appeal B does not succeed and I will exercise the powers transferred to me under section 195(3) of the Act.

Formal Decisions

23. Appeal A on ground (d) is dismissed and the enforcement notice is upheld.
24. Appeal B is dismissed.

Robin Buchanan
INSPECTOR