



Appeal Decision

Site visit made on 25 February 2026

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2026

Appeal Ref: APP/E2205/X/25/3361039

Land North of The Meads, Huntstreet, Crundale, Canterbury, Kent CT4 7EL

- 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 Mr J White against the decision of Ashford Borough Council.
- The application ref PA/2023/2368, dated 20 December 2023, was refused by notice dated 15 February 2024.
- The application was made under section 191(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 change of use of the land and construction of a detached independent dwellinghouse.

Summary Decision: The appeal is allowed, and a certificate of lawful use or development is issued in the terms set out below in the Formal Decision.

Preliminary Matters

1. The appellant has sought an LDC for an existing use of this land under section 191(1)(a). That was refused by the Council as they did not consider that section was applicable to the facts of the case. This is because the development relates to both the use of the land, that would be subject of section 191(1)(a) and the construction of the dwellinghouse that would be subject of section 191(1)(b). Nevertheless, and as set out by the Council, the issue is whether the development is lawful. In this regard, section 191(2) states that uses and operations are lawful at any time if no enforcement action may be taken in respect of them. The relevant date for determination is the date of application.
2. The Council have set out that, at the date of application, the terms of section 171B of the Act meant that the development would have become lawful if it had been carried out for a period of at least 10 years beginning with the date on which the operations were substantially completed or the breach of planning control commenced. This is not disputed by the appellant. I will proceed on this basis.

Main Issue

3. The main issue in an appeal against refusal of an LDC is whether the decision of the Council was well-founded.

Reasons

4. In the case of an application for an LDC, the onus is on the appellant to demonstrate the lawfulness of the development. The test of the evidence is on the balance of probability, or whether something is more likely than not. Planning Practice Guidance (PPG) affirms that if there is no evidence to contradict the appellant's version of events or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

5. A planning application was submitted under reference 10/01354/AS for the siting of a mobile home. That was disposed of undetermined in June 2012. By letter dated 26 November 2010 the Council set out that the development subject of that application was taking place on site, which included a wooden structure being built around a mobile home, and this differed from that applied for. They suggested that the description of development be amended to state “change of use of land to residential and erection of dwelling”.
6. Evidence submitted by the appellant demonstrates that building remains on the site.
7. Planning permission was granted for the change of use of agricultural land to garden on 14 April 2011, reference 11/00084/AS. That garden would have related to the neighbouring house, The Meads.
8. The Council have identified that the building appears on satellite imagery dating back to 2011.
9. A letter from the Council to the appellant dated 13 June 2012 stated that “you have continued with the works and the building is now fully boarded and the development completed. As I explained, to create this structure around the caravan would require planning permission and I do not consider that this is an acceptable form of development in this location as it results in what appears to be a new dwelling which is unacceptable in this rural location.”
10. The Council suggest Council Tax has not been paid for the dwelling. A Council Tax bill dated 25 October 2012 relating to “mobile at The Meads” has been provided that covered the period 25 July 2012 to 31 March 2013 that showed instalments being due. I understand the first instalment was paid. A subsequent letter from the Valuation Office Agency dated 14 January 2013 indicates that the mobile home at The Meads was deleted from the register as it was no longer a dwelling for Council Tax purposes, the effective date being 7 January 2013. Another Council Tax bill was issued on 17 January 2013 for the period 25 July 2012 to 6 January 2013 and was marked as paid.
11. An explanation is given by the appellant’s agent that a Valuation Officer visited in January 2013 at which they concluded the building was no longer a dwelling. They suggest this was because the kitchen had been removed in order to be replaced. In his Statutory Declaration, the appellant explains that he replaced the kitchen between December 2012 and January 2013. During this period, he prepared meals at the Huntstreet Farm Office, where he was working. This relatively short period when no kitchen was provided within the building is not sufficient, in my view, to constitute a break in occupation.
12. The next council Tax Bill supplied was dated 20 March 2024 for “Mobile Home The Meads”, following refusal of this application for an LDC.
13. In his Statutory Declaration, the Chair of Crundale Parish Council recalls visiting the house shortly before the London 2012 Olympics, when the appellant was living in the building. He has visited regularly since. This supports the appellant’s contention that he completed the dwelling in 2011 and started living in it straight away.

14. On that basis and on the balance of probability, I conclude that the building was substantially complete and occupied by the date of the letter of 13 June 2012. It has been residentially occupied ever since.
15. The building has been subject of two extensions. On my site visit, I noted that the building had been further developed with much of the porch being enclosed and hot tub removed.
16. I understand that the Council largely accept the above. However, they raise three other issues. These are:
 - The effect of the extensions to the building;
 - whether the building was used as ancillary accommodation to The Meads rather than as an independent dwelling; and
 - whether the development has been deliberately concealed.

Extensions

17. The Council suggest that the 2019 extension may have been provided after that date as it first appeared on an aerial photograph dated May 2020, the previous aerial photograph to which my attention has been drawn dated May 2019. If that were the case, it was less than four years since the extension was added such that it would not have become lawful. However, the appellant's Statutory Declaration states that the extension was completed in November 2019.
18. The other extension was provided in June 2018 and that is not in dispute between the parties.
19. The application is seeking to determine whether the building was complete and occupied for a period of 10 years beginning with the date it was occupied. It is clear that the use was not lawful when the extension was constructed. Nevertheless, the building was able to operate as a dwellinghouse without that extension. Whether the extension is lawful does not affect the lawfulness of the rest of the building and its use.
20. Taking account of the above, on the balance of probability, I consider that the extension was substantially complete in November 2019, such that it would have been lawful at the date of application.

Ancillary or independent

21. The appellant states that he moved to The Meads, his family home, to care for his parents. In 2010 he moved a mobile home onto the site adjacent to that house and, in 2011, made alterations to that to create the home he moved into. He states that it was invaluable to live close to his parents in order to care for them whilst retaining his independence.
22. The building has always provided the necessary facilities for independent living, such as living space, bedrooms, kitchen, shower room and W.C. It is supplied with water, electricity and a waste system. It is located on an area between the garage in front of The Meads and the road with a separate access from the road to Huntstreet Farm that leads past The Meads.
23. The electricity and water supply to the building are sub-metered from the supply to The Meads. The mailing address is also shared with The Meads. Whilst I accept

that introduces a degree of reliance on The Meads, it does not mean that the building was not occupied independently.

24. Whilst it appears that this was a convenient place to live in order to care for his parents, the building provided all the facilities for day-to-day living, with separate access. On the basis of the evidence submitted and on the balance of probability, the building has been lived in separately from The Meads since first occupation.
25. In this regard, the Council have drawn my attention to case law, including *Uttlesford DC v SSE & White* [1992] JPL 171. That related to a garage that had been converted into residential accommodation. In that case, the court held that it was an annexe to the dwelling so was ancillary to the main use. However, this matter needs to be considered as a matter of fact and degree on the circumstances of the individual case. This does not alter my conclusions on this matter.
26. Taking all the above into account, I conclude that the building has been occupied independently of The Meads.

Deliberate concealment

27. Council records show that the appellant agreed to remove the building at a site visit by the Council on 30 July 2012. They suggested it would be removed by the first week of October, after the harvest. This was recorded in a letter sent on 28 February 2013, where the appellant was also requested to confirm this had been done. The Council have no record of a response.
28. I have referred above to the break in Council Tax bills between 2013 and 2024. The documents submitted with the appeal suggest that there were contemporary requests for clarification to the Valuation Office Agency. There is nothing to contradict the appellant's version of events or make it less than probable.
29. The concept of deliberate concealment relates to where the action of the developer amounts to positive deception in matters integral to the planning process that was directly intended to and did undermine the regular operation of that process.
30. In this case, the building is clearly visible from the road and has the form and appearance of a dwellinghouse. It is clear from the evidence that it was occupied as such. Whilst the agreement to move from the building and lack of response to the letter dated 28 February 2013 could contribute toward positive deception, this is insufficient to amount to deliberate concealment of itself. Similarly, the evidence suggests that the information relating to a break in Council Tax bills and payment would not count toward positive deception. There is limited evidence of any further attempt to conceal the dwellinghouse from the Council in the following 10 years before this application for an LDC. The evidence suggests that the Council could have investigated the use of the building in that period and would have discovered its use as a dwellinghouse.
31. For these reasons and on the balance of probabilities, I conclude that there is insufficient evidence of positive deception to amount to deliberate concealment.

Conclusion

32. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for change of use of land and construction of a detached independent dwellinghouse is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Formal Decision

33. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use and operation which is found to be lawful.

AJ Steen

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 20 December 2023 the use and operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The building was constructed and occupied by the date of the letter of 13 June 2012. It was occupied for a period of at least 10 years beginning with the date on which the operations were substantially completed or the breach of planning control commenced. As a result, no enforcement action may be taken in respect of the construction and occupation of the building as a detached independent dwellinghouse.

Signed

AJ Steen

Inspector

Date: **26 March 2026**

Reference: APP/E2205/X/25/3361039

First Schedule

Change of use of land and construction of a detached independent dwellinghouse

Second Schedule

Land North of The Meads, Huntstreet, Crundale, Canterbury, Kent CT4 7EL

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use and operation described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use and operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use or operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: **26 March 2026**

by **AJ Steen**

Land at: Land North of The Meadows, Huntstreet, Crundale, Canterbury, Kent CT4 7EL

Reference: APP/E2205/X/25/3361039

Scale: Not to Scale

