



Appeal Decision

Site visit made on 24 March 2026

by **R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 May 2026

Appeal Ref: APP/J9497/X/24/3345832

Soda Ash Building, Bovey Tracey TQ13 9PA

- 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 Nigel Barker against the decision of Dartmoor National Park Authority.
 - The application ref 0501/23, dated 30 October 2023, was refused by notice dated 14 March 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended) ('the Act').
 - The use for which a certificate of lawful use or development is sought is Use of the building as a second home (single dwellinghouse, use class C3).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the decision made by the Dartmoor National Park Authority ('NPA') was well-founded.
3. In this, my decision rests on two matters: whether the Soda Ash Building ('the building') has been a Class C3 dwellinghouse; and, if so, the duration of the use. If the finding on the first matter is that the building is a dwellinghouse, then I will move on to the duration of the use.

Reasons

4. The building is a single storey, ex-industrial building of a utilitarian design; rectangular in plan form with a ridged roof. Formerly used in connection with the treatment of water at Trenchford Reservoir, it lies at the foot of the bank sloping up to the dam that impounds the water. The building is set within thick tree and shrub growth. The building has no windows in its walls. The only punctuation in these is a large windowless steel door, and three rooflights set into its roof. As such, it has retained its former industrial appearance. At its southwestern end, accessed externally, were two rooms used as a workshop and a storage area.
5. I saw that the interior of the building had been converted to living accommodation.

Whether a dwellinghouse

6. There is no definition of the term dwellinghouse in the Act. However, in the case of *Gravesham BC v SSE & O'Brien* [1983] JPL 306 found that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. It is this definition that is to be used in assessing whether a building is a dwellinghouse. Such an

assessment will be undertaken as a matter of fact and degree, dependent on the individual circumstances of each case. That this is the correct approach is evident from the *Gravesham* judgement, appeals¹ that I have been referred to and the decisions in *Moore v SSCLG & Suffolk Coastal DC* [2012] EWCA Civ 1202 and *Grendon v FSS and Cotswold DC* [2006] EWHC 1711 (Admin).

7. The Appellant's case is that, since his purchase of the building in 2015, he has used the building as a dwellinghouse. He says he added various facilities over time and, as he puts it, "all of its primary facilities have been in situ since at least 2019".
8. The evidence shows that, initially, the building's interior was extremely basic with, amongst other things, its occupants using air mattresses and a tent was pitched within the building. By the time of my visit, things had greatly changed. The interior had been divided into two rooms. Amongst other things, the smaller area had a double bed, shelving with DVDs and books and a television; whilst the larger area had, amongst other things, seating, domestic furniture and paraphernalia, a bottled gas hob and microwave, fridge and functioning sink. An area containing a shower, and a chemical toilet was loosely divided from the rest of this space. I saw that the shower and sink ran to a drain outside, though the Appellant had no clear idea of where the flow went from there. The contents of the toilet were taken off-site to a disposal point.
9. I find that the cooking, eating, washing, relaxing and sleeping facilities, together with the Appellant's use of bottled water, a water tank in the roof, mains electricity and bottled gas, provided most of the facilities required in the assessment of a *Gravesham* dwellinghouse. When these facilities were added only becomes an issue if the building is held to be a *Gravesham* dwellinghouse. Therefore, arguments about the dates of their being added and of the photographs that were submitted only becomes relevant in those circumstances.
10. The interior of the building was cramped and untidy and those facilities I mention would not, necessarily, be to the liking of many people. However, the point made by the Appellant that the facilities expected in a second home might not accord with those in a person's principal dwelling was well-made. However, there are, to my mind, further facilities that are required to pass the *Gravesham* 'test'.
11. In the absence of any windows, natural ventilation is limited to opening the large steel door to the building. There is, however, a ventilation system in the bedroom, and an extractor fan in the main room. Those would have to be relied on in wet, cold or windy weather, which is not uncommon on Dartmoor, as well as through the night as opening the door at those times would not be practical.
12. The lack of windows, or, for that matter, glazing in the door, means that natural light entering the building is limited to a sun tube running from a rooflight to the ceiling of the main room when the door is shut. This is set behind a screen set into the ceiling, which can be removed as required. The building had a further two rooflights, but the evidence shows that these only provide light to its loft area.
13. It was a cloudy, yet fairly bright day when I visited the site, and I could see how the sun tube provided daylight to the interior of the building's main room. However, I could also see its limitations; it only provided meaningful light to the area

¹ APP/M4320/C/17/316632; APP/P9502/X/11/2158016; and APP/R3650/X/10/2130245

immediately below the tube. The amount of light diminished rapidly away from the tube, and electric lights were required to remain on throughout my site visit.

14. Even on days when it was bright, warm and the wind was not blowing towards the door, so it might be opened, occupants of the building would be reliant on electric lights to some degree. Natural light from the tube and door combined would not be adequate in the bedroom, nor across much of the larger room. In addition to the lack of natural light and ventilation, the absence of glazing means that occupants of the building have no outlook whatsoever when the door was closed.
15. I find that the provision of some manner of fenestration, whether by way of windows or glazing in the door, are amongst the “facilities required for day-to-day private domestic existence” to provide the necessary daylight, natural ventilation and outlook for the building’s occupants.
16. The Appellant is right that there is no set list of required facilities and that other Inspectors have allowed appeals where some facilities listed by the NPA in its evidence have not been present. It would appear that there might have been a lack of windows. However, I do not have the full details of those cases. He says that, in *Gravesham and Moore*, “windows and access to natural light were not matters of consideration”. That might well have been because the matter had been addressed in the Inspector’s decision letters and were not matters of contention at the court hearings. In any event, there is nothing in the cases to say that the facilities they refer to are exhaustive. As I have said, each decision has to be reached on a fact and degree basis, which would be unique to each case.
17. My decision cannot be based on a ‘totting up’ basis where the number of facilities present is set against those that are missing. To my mind, a single facility can be held to be fundamental and that its absence precludes the issuing of a certificate. I find that the lack of windows is fundamental, and is not outweighed by the presence of other facilities.
18. I understand the Appellant’s arguments that the facilities expected in a second home might differ from those in a principal dwelling. However, the *Gravesham* ‘test’ still needs to be passed. Here, the building does not pass the test. That the Appellant would choose to live in the building as it is does not change that.
19. Four affidavits have been submitted, made by the Appellant, his wife, daughter and sister. They relate to the building’s use, rather than the facilities therein, so do not provide evidence to lead me to find contrary to the position I take, above.
20. For the above reasons, as a matter of fact and degree, I find that the Soda Ash building is not, and has not been, a Class C3 dwellinghouse. Having reached this position, there is no need to address the matter of the duration of the use.

Conclusion

21. 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 use of the building as a second home (single dwellinghouse, use class C3) is well founded. The appeal should fail, and I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

R Curnow

INSPECTOR