
Appeal Decision

Site visit made on 15 May 2026

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2026

Appeal Ref: APP/Q9495/X/25/3364720

The Filter House, Hayeswater Gill Valley, Hartsop, CA11 0NZ

- 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 Mike Brett against the decision of Lake District National Park Authority.
 - The application reference 7/2024/3132, dated 22 November 2024, was refused by notice dated 21 January 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended) (“the TCPA”).
 - The use for which a certificate of lawful use or development is sought is use of Filter House, as a dwelling in the form of a holiday home.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Authority’s decision to refuse to grant the LDC was well-founded.
3. The appellant bought the Filter House in early 2020 and states that it has been used as a holiday home since around 2008/2009. The building dates from around the 1920s and sits within the wider appeal site. As the LDC application is for the change in use of a building to use as a single dwellinghouse, and the date of the breach was before 25 April 2024, no enforcement action may be taken after the end of a period of four years beginning on the date of the breach¹. I am not aware that an enforcement notice has been issued in relation to the site.
4. In order to succeed in this appeal, the appellant must show on the balance of probability that the building and appeal land have been used as a dwelling in the form as a holiday home for a continuous and uninterrupted period of at least 4 years prior to the date of the LDC application (i.e. four years prior to 22 November 2024). The words “dwelling” and “dwellinghouse” are interchangeable.
5. The Authority’s reason for refusing the LDC is that the evidence suggest that the use of the building was very limited, and that it lacks the facilities for day to day living. They state that the appellant had failed to provide sufficiently precise and unambiguous evidence to demonstrate that a material change of use of the building and its curtilage to a dwelling had occurred and accrued lawfulness.

¹ Section 171B (2), TCPA

Facts

6. It is not disputed that the original use of the building for which it was constructed was as a waterworks building used in connection with the Hayeswater Reservoir. This use ended in around 2025 and it was sold to the previous owner in 2009.
7. The appellant states that he is aware from the previous owner that between 2008 and 2010 the building was installed with new windows, electrical rewiring and new lighting, a water bore hole and sink and shower, and a kitchen area with aga for cooking and heating.
8. The building is waterproof and fully secure with fitted double-glazed windows and doors, has electricity and broadband and has water including for drinking, drainage and a sewage system. It contains kitchen facilities including oven, fridge and sink with several stand-alone kitchen units in the main building. There is no information before me to show that the building is fully heated insulated. The shower room and toilet is in a small side extension and the rest of the building is one large space with no partitions or subdivision.
9. The appellant's case is that he has occupied the building as a holiday home since he purchased the property. He states that he (and his family and guests) originally slept in a tent which was pitched inside the building, and that now sleep in the two touring caravans which are now stationed inside it as "bedrooms" (and which were present during the site visit).

Reasons

10. It is not disputed that a dwellinghouse for the purposes of use class C3 may include holiday homes. However, the first question to be considered in this appeal is whether the appeal building is a dwellinghouse.
11. The distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day private domestic existence.² Caselaw further tells us that both the physical state of a building and the actual, intended or attempted use of it are important, but neither is decisive. These matters have to be looked at in the round.³
12. Whilst it is evident that the building has many of the amenities and facilities associated with a dwellinghouse use it is not, as a matter of fact and degree, a dwellinghouse. The fact that the tent and caravans have been required, even if used alongside the cooking facilities and shower room, indicates that not all of the facilities for private day to day living are afforded as part of the building. People staying on the site are camping, and even if it would be possible to sleep without the caravan or tent during the summer months, the appellant has not argued that this could be done throughout the year. If it were possible then there would be no need for the caravans to have been taken to the site.
13. Indeed the case of *Backer v SSE& Camden LBC* [1983] JPL 167 draws the distinction between a residential use and use as a dwellinghouse. The Deputy Judge in that case quotes from the much earlier case of *Macmillan and Co. Ltd v Rees* (1946) 1 All ER 675 which dates from just after the Second World War: "*It is, no doubt true that the acts of sleeping upon premises at night and having meals*

² *Gravesham BC v SSE & O'Brien* [1983]

³ *Impey v SSE & Lake District SPB* [1981] JPL 363

upon them by day are acts which may be described as ‘residential’ in character. But the use of premises as a dwelling-house is by no means necessarily confined to their use by the tenant for sleeping and eating. The experience of great numbers of Englishmen during the last six years provides many instances of sleeping and eating upon premises which could by no fair use of language on that account be described as dwelling-houses. In other words, to sleep in a particular premises at night, or to have one’s meals upon them by day, or both, ought not ipso facto to have the effect in law of making those premises a dwellinghouse...”

14. There may have been a residential use of the appeal site but the physical characteristics of the building, and description of its actual use (including sleeping in a caravan or tent) taken together do not show on balance that the building is a dwelling, and the appeal does not therefore succeed. The building has been used to support the camping that has taken place on the site, and not as a single dwellinghouse. This is irrespective of whether the use has been for holiday purposes only, or whether it took place for a sufficiently continuous and uninterrupted period. In any event, the time limit for enforcement in relation to a material change of use of land to residential is 10 years .⁴

Conclusion

15. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development for the use of the Filter House as a dwelling in the form of a holiday home 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).

Zoë Frank

INSPECTOR

⁴ Section 171B (3), TCPA