



Appeal Decision

Site visit made on 19 May 2026

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2026

Appeal Ref: APP/Y3940/X/24/3356052

Land off Kingsdown Road, Kingsdown, Corsham, Wiltshire

- 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 Michael Clarke against the decision of Wiltshire Council.
 - The application ref PL/2024/08011, dated 31 August 2024, was refused by notice dated 18 November 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 a dwelling house including garden.
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Decision

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

Application for costs

2. An application for costs has been made by Mr Michael Clarke against Wiltshire Council. That application is the subject of a separate Decision.

Reasons

3. The application relates to the residential use of a former stable block. To be lawful, it must have been used as a single dwelling house for 4 years prior to the date of the application. The onus is on the appellant to prove their case on the balance of probabilities. Where there is no contrary evidence that casts doubt over their version of events or makes it less than probable, the appellant's case should be accepted, provided that their evidence is sufficiently precise and unambiguous.
4. The appellant moved onto the site in 2012 and resided in a caravan. Statutory declarations indicate that in 2019 he converted the stable building to living accommodation and moved into it. The appellant's own declaration expressly states that he has lived there continuously since.
5. Other than a statement that a representative of the adjacent golf club was told by the appellant that he was not living there, there is no substantive evidence to cast the appellant's version of events into doubt. The Council accepts that this statement should carry limited weight as it is unsworn and refers to other aspects of the site that do not reflect the facts on the ground. The golf club have also suggested that the appellant has been trying to conceal his occupation of the site, but there is no particular evidence of positive deception in the planning process that might prevent the development becoming lawful.

6. Other supporting information, such as that relating to water and electricity supplies could relate equally to equestrian and residential uses. A lack of postal address does not prove or disprove the residential use. However, that the supporting evidence need not necessarily support a residential use, does not contradict or cast doubt over the clear declaration made by the appellant that he has resided continuously in the former stable building since 2019.
7. The case, therefore, turns on whether the former stable building is actually a dwelling house because, if it were not, then 10 years would have to pass before no enforcement action could be taken. There is no dispute that guidance for that comes, primarily, from the case of *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307.
8. The former stable building has 3 separate bays, each accessed from outside, but with very small interconnecting doors of insufficient height for most adults to pass through without stooping. From outside, it retains the appearance of a stable. Inside, some of the walls and ceilings have been clad with plywood or similar. Others are open to the timber framework. There are concrete floors throughout, with some rugs placed to soften the floor in the 'kitchen' and 'living/bedroom' areas.
9. Facing the doors, the left hand bay is primarily a kitchen/dining area. A kitchen worktop has been constructed, and atop this is a gas stove, connected to a portable gas bottle. There is electricity in this area, but no running water. In the corner, is a cubicle with drawable curtain, within which a small portable toilet has been placed on a permanently constructed unit that appears to have been designed for that purpose. That toilet has to be emptied into a 'portaloo' outside the building and collected periodically by an external contractor.
10. The central bay has been furnished with free-standing items as a bedroom and living area. There is a woodburning stove for heat. The right hand bay is a washing area. It has running water feeding a sink, shower and washing machine. Shower water is heated by gas. Waste water drains to portable tanks for emptying elsewhere. There is no covering on the concrete floor.
11. *Gravesham* establishes that the distinctive characteristic of a dwellinghouse is a building with an ability to afford those who use it the facilities required for day-to-day private domestic existence. It is clear in this case that the building has been, and is, used for that purpose by the appellant, even though the land has no postal address. It is important, though, that the building provides more than just shelter where somebody can live, as many places can provide a home without being a dwelling house. The Judgement specifically expresses an example that a wooden shed consisting of an office, w.c. and washbasin could hardly be turned into a "dwelling-house", for the purposes relevant to that case, just because somebody put furniture in it and lived there.
12. The appeal site provides more than that. There are 3 interconnected rooms providing spaces that are familiar in many dwelling houses: A kitchen with cooking and storage facilities, an area with soft furnishings, and an area for washing. The facilities are primitive, and I have no doubt that many people would not wish to tolerate them on a daily basis. There is also a great deal of inconvenience compared to most dwellings, not least the need to empty the toilet and waste water

to an outside facility, and the need to stoop through the doorways if weather dictates that using the outside doors is undesirable.

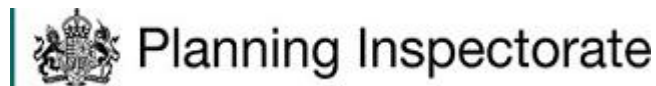
13. Nevertheless, the necessary facilities are all there, and while a plumbed toilet may be regarded by many as a most basic requirement for day-to-day living, I note that the dwellinghouse in *Gravesham* did not contain any toilet facility at all within the building. That cannot, therefore, be determinative.
14. Given the lack of waste water plumbing, the Council draws comparison with other accommodation, not considered to be a dwelling house, such as boats, mobile homes and caravans. Indeed, many of the facilities provided are akin to such structures in terms of services and heating. Nevertheless, an obvious difference between the current case, boats, mobile homes and caravans is that the latter three are moveable, whereas the appeal site contains a permanent, fixed building. It seems to me that the distinction over movability is more important than the similarity between the types of facilities, because many boats, mobile homes and caravans can and do provide the necessary facilities for a private day-to-day existence without being dwelling houses.
15. There is also a clear distinction between the site and a building found not to be a dwelling house in an appeal at Waycotts Orchard, Buckfastleigh, where an Inspector found that the building in question had not been a dwelling house for long enough to gain immunity from enforcement action. In that case, at the beginning of the critical time, the accommodation was in a single room. Kitchen facilities had been provided within an external shelter, and sanitary facilities were provided, intimately, within the single room. In the present case, there are separate spaces allowing a reasonable degree of privacy when required.
16. The accommodation at the appeal site has been created by putting various movable items of furniture into the building, along with cooking and water heating facilities that can easily be disconnected. However, the facilities and distinct spaces, each providing separate functions typically found in different rooms of dwelling houses, all within one single building, represent a situation that is more than just camping out within the building.
17. I, therefore, find that the building at the appeal site affords those who use it the facilities required for day-to-day private existence. It is, therefore, a dwellinghouse and the four-year period of occupation preceding the date of the application is sufficient for the development to have become lawful.
18. I have no reason to find that the land immediately surrounding it has not been used as a single planning unit both before and alongside the dwelling house and so the garden would not also have become lawful. There is no evidence, however, to support all of the land within the appellant's ownership being the garden area, as the adjoining field appears to be physically and functionally separate to the residential use.

Conclusion

19. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for a dwelling house including garden 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 Town and Country Planning Act 1990 (as amended).

M Bale

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 2 September 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in heavy black outline on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use of the building as a single dwelling house has continued for more than 4 years prior to the date of the application.

Signed

M Bale

INSPECTOR

Date: 10 June 2026

Reference: APP/Y3940/X/24/3356052

First Schedule

Dwelling house including garden

Second Schedule

Land off Kingsdown Road, Corsham, Wiltshire

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /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 this decision dated: 10 June 2026

by M Bale

Land at: Land off Kingsdown Road, Corsham, Wiltshire

Reference: APP/Y3940/X/24/3356052

Scale: Not to Scale

