



Appeal Decision

Site visit made on 1 July 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 July 2026

Appeal Ref: APP/J1915/X/25/3368629

Land adjacent to Robin Hill, High Molewood, Hertford, Hertfordshire, SG14 2PL

- 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 Michael Edwards against the decision of East Hertfordshire District Council.
 - The application ref 3/24/1557/CLEO, dated 28 August 2024, was refused by notice dated 23 October 2024.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is the continued erection of a building comprising a stable, tack room and hay store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of this appeal, the Council has referred to the approval on appeal for another building on other land which is in the ownership of the appellant¹. This development was the subject of a completed unilateral undertaking (UU) dated 9 November 2020 and made under section 106 of the Act. It specifically revoked planning permission reference 3/12/1326/FP dated 2 November 2012, i.e., the erection of a building comprising a stable, tack room and hay store which is the subject of this appeal. The Council officer was not aware of this information when the decision was made to refuse the lawful development certificate application which is the subject of this appeal. While this is new information, the appellant has had an opportunity to comment on it as part of final comments. Moreover, as the appellant signed the UU, he will be aware of it.
3. The Council has confirmed, as part of this appeal, that while it is still not persuaded that sufficiently precise and unambiguous evidence has been submitted by the appellant to demonstrate that a material operation was carried out in respect of the commencement of development of planning permission 3/12/1326/FP, its case now is essentially that as such a planning permission has been revoked following the 15 July 2021 planning permission for an outbuilding elsewhere, this appeal should be dismissed as the development cannot lawfully be continued or the planning permission lawfully implemented.
4. I have been able to consider the UU which accompanied the 15 July 2021 planning permission and particularly schedule 1 which states that upon the

¹ Appeal reference No. APP/J1915/C/20/3258919 for the erection of an outbuilding and dated 15 July 2021

Inspector granting planning permission for the outbuilding, *'the planning permission granted by the Council under 3/12/1326/FP in Schedule 7 so far as the development was commenced be revoked and the land returned to the position it was prior to the development having been commenced with any materials being removed from the site'*.

5. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that planning merits are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

6. The main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether the evidence demonstrates that on the date of the LDC application planning permission 3/12/1326/FP had lawfully commenced, and that it was lawful to continue to erect a building comprising a stable, tack room and hay store.

Reasons

7. The LDC application is made under section 191(b) of the Act, i.e., that on the date of the LDC application (28 August 2024) the alleged operations (i.e., the provision of foundations/footings in 2013) which had been carried out in, on, over or under land were lawful. The appellant's claim is that as the provision of the foundations constitutes a commencement of development under section 56 of the Act, it therefore means that the development authorised by planning permission 3/12/1326/FP can be lawfully continued/completed. Section 56(1)(4)(b) defines a material operation, and hence the time when development is initiated, as the *'digging of a trench which is to contain the foundations, or part of the foundations, of a building'*.
8. The Inspector who considered the outbuilding which was the subject of the 9 June 2021 appeal decision comments that in respect of the building approved by planning permission 3/12/1326/FP, *'it is accepted by the Council that the footings of the structure are in place'* and *'there is nothing to persuade me that the works carried out do not constitute a material operation that result in the lawful commencement of the development, and that as things stand at present, the development could not be completed'*.
9. While I acknowledge that the appellant's evidence in the form of undated photographs showing foundation works, the statutory declaration of the appellant, and the quotation from Dave Head and Sons dated 19 April 2013 are to some extent lacking in precision. However, when these matters are also considered alongside the above comments made by the previous Inspector, I find, on the balance of probability, that the collective evidence does support the claim that the foundation/footings works were carried out in 2013 in respect of planning permission 3/12/1326/FP.
10. Notwithstanding the above, the LDC application was made on 28 August 2024. The LDC is seeking legal confirmation that on this date a lawful commencement of development of planning permission 3/12/1326/FP had taken place and that in essence such development could lawfully be continued or completed in

accordance with such a planning permission. As planning permission 3/12/1326/FP had been revoked prior to the date of the LDC application, I am unable to conclude and confirm that on the date of the LDC application a lawful commencement of development had occurred. Moreover, and as planning permission 3/12/1326/FP no longer exists, it would not be lawful to build out or continue the development which was previously authorised by this planning permission.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the continued erection of a building comprising a stable, tack room and hay store 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).

D Hartley

INSPECTOR