



Appeal Decision

Inquiry held on 5 August 2026

Site visit made on 4 August 2026

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 7th August 2026

Appeal Ref: APP/T2215/X/26/3378282

Land Adjacent Manor Farm Cottages, Green Street Green Road, Darenth, Kent, DA2 8DN

- 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 Richard Evans (South Darenth Farms and Cold Store Company Ltd) against the decision of Dartford Borough Council.
 - The application ref DA/25/00973/LDC, dated 20 August 2025, was refused by notice dated 11 November 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is continued storage use of land (Use Class B8).
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Decision

1. The appeal is dismissed.

Reasons

2. The site forms part of a rectangle of land lying to the north of Green Street Green Road. A track, about 50m long leads to the land. There is a row of 4 houses (Manor Farm Cottages) to the front and the land behind is split roughly into halves. The track runs down the west side of the end cottage to the appeal site which occupies the western half of the rectangle. The eastern half of the rectangle is split in two. Behind the cottages to the east side another track provides access to Slipway Cottage which occupies the bottom half of the split with a square of open ground beyond it to the north finishing off this half. The whole is surrounded by agricultural land in production, by way of contrast the appeal site and the land to the north of Slipway cottage are overgrown. The site and all the land around, including the cottages are owned either by SDF directly, or other members of the family who own SDF.
3. The appellant's case is quite straightforward. At some time before 2008 a Mr Merriner took a tenancy at Slipway Cottage. He began using the appeal site for vehicle related activities. There was a complaint made to the Council that he was selling cars from the site, this ceased and the site was cleared of vehicles in 2014. Thereafter he used the land for storage of vehicles until he left in 2024, at which point SDF began using it for storage purposes of their own. Thus for at least 10 years before August 2025 the land has been used for storage and an LDC should be issued.

4. The Council however, contend that either the car sales continued after 2015, or there were car repairs on the site, or the site itself changed during the 10 years or there was a break in continuity or SDF have never actually used it for storage. What complicates matters is that there is hardly any evidence at all to support either version of events. I shall go through the evidence, such as it is, below and come to a conclusion. The appellant does not have to prove his version of events but he has to demonstrate it is the most likely based on the balance of probabilities.
5. Mr Simpson moved into one of Manor Farm Cottages in 2008 and recalls that Mr Merriner was already in Slipway and using the site then. Basically this is all we know of Mr Merriner. Whichever branch of the family owned Slipway they did not keep records of the tenancy but the council tax records suggest he took up occupancy in January 2007 while there is some dispute as to exactly when he left. The neighbouring appeal site was owned by a family trust and passed to SDF directly in 2021. Two members of the family gave evidence to the Inquiry, Richard Evans, who had direct knowledge of the site from about 2016 and Sharon Kirby who was a director of SDF. They both said that the site was dealt with by Debbie Ingram, who seems to have been an employee of SDF and worked with SDF to 2015 and CLM consultants beyond that date, to manage the site. However, what exactly Ms Ingram did is unknown as no rent was ever received for the site and the witnesses assume she let Mr Merriner use it for nothing. However, there is no evidence for any of this, or indeed that anyone in SDF knew the land was being used at all until Mr Evans visited in 2016. Furthermore, no-one knows what Mr Merriner did for a living or where he went after leaving Slipway.
6. What we do know is that in 2011 the Council enforcement officer visited following, presumably, an accusation of car sales. Photographs show the site with cars and vans parked. Photographs from a further site visit in 2013 show a red truck with advertising on it for car and van sales as well as other cars lined up. A final visit in 2014 shows most of the cars have gone, the red truck remains and the enforcement notes are that the remaining vehicles were for the personal use of Mr Merriner and his family and the case was closed. It is reasonable to infer from this that the site was being used for car sales prior to 2014 but that use ceased and thereafter the site was occupied solely for Mr Merriner's personal use.
7. The oldest aerial photograph is from 1999, at which date the northern part of the site and the waste land to the north of Slipway all seem to be part of the garden of Slipway Cottage. In 2003 this impression is reinforced. The southern part of the site (beside the access track and adjacent to the row of Manor Farm Cottages) is overgrown with trees and shrubs and that remains the case today. The rest of the site and the waste land to the North of Slipway are all clearly part of Slipway's garden. 3 or 4 cars are parked on the site, which is accessed from the track to the west of Manor Farm Cottages. In 2006 there are 10 or so vehicles parked on the site and there are no boundaries between it and Slipway and the northern land.
8. The same is true in 2009, by which time Mr Merriner is in occupation of Slipway. The whole northern half of the rectangle (Slipway, the land to the north and the appeal site) seems to be 1 unit, with 15-20 vehicles neatly parked on the site, plus possibly a couple of sheds in the northern corner. In 2012 there are only about 8-10 vehicles, but in April 2015, which is after the car sales are supposed to have ceased this has increased again to 15-20 vehicles. There is also a rough line of something that seems to form a boundary between the site and Slipway to the

east. There is still no boundary between Slipway and the land to the north, and there is at least 1 vehicle parked on that land beyond the 'boundary'. Two months later in June 2015 there definitely seems to be a clearer fence or similar boundary between the site and at least parts of the Slipway/Northern land area, but considerably further east than the April 'boundary'. There are about 20 vehicles, including lorries and possibly a boat and several sheds on the site. By April 2017 the land to the north of Slipway seems to be overgrown and unused and the site has many vehicles on it and the garden of Slipway seems to be clearly separate from the appeal site.

9. Little changes until April 2020 when a large shed appears in the north-eastern corner of the site and there seem to be mostly lorries on the site. Various later aerials show lots of vehicles on the site until August 2025, after Mr Merriner's departure, when it is empty apart from a scatter of what look like bits of rubbish. Site visit photographs from October 2025 support this, except there is also a stack of intermediate bulk containers (IBCs) in the middle of the site. These are large plastic containers in metal frames used for storing liquids and powders. SDF moved them onto the site and they occupy about the footprint of a large lorry. My site visit showed they were still there, but the site was overgrown and unused, apart from a large pile of waste dumped illegally by fly tippers who rammed down the gates. In response SDF have placed concrete blocks across the entrance awaiting the outcome of this appeal.
10. As the Council point out the aerials do not tell us what use Mr Merriner was making of the site. Were the vehicles stored and if so why? Some seem to be on site for many years, others come and go. The Council suggest its most likely he simply resumed his car sales activity, and the Officer report from October 2025 says that a local resident informed him the site had been used for car sales up until the last year or two. However, there is no evidence for direct sales from the site, no advertising and, according to witnesses, very little activity. Mr Simpson had the best view of the site. He said he saw occasional vehicle movements, about one a week. But people did come onto the site to carry out vehicle repairs and this seemed to be more regular. Mr Simpson guessed twice a week on occasions, but then not for a month or so. Mr Evans only went three times and every time saw vehicles on the site – which is not surprising. He speculated they were there for storage. Mr Simpson speculated that various lorry bodies were used for personal storage but didn't actually know that. Sharon Kirby also speculated the land was used for storage, but that was based on office gossip.
11. In my view the site could not have been used for vehicle sales without there being some form of advertising or signage and someone would have noticed these and people visiting the site on a regular basis to inspect and try out cars. We know Mr Merriner was involved in vehicle sales so it is most likely he used the site to store vehicles until he could sell them from, presumably, another site. The aerials suggest the vehicles are often parked double and some seemed to have remained for many years, which suggests this was some sort of overflow for hard to shift stock. This would explain the occasional repair work. Perhaps after a few years they were scrapped? Whatever the exact reason for the vehicles, all these speculative uses are storage purposes and fall within B8. It is not unusual for a car sales garage to have an off-site storage facility for stock. Depending on how it is used, number of movements, visits by customers for test drives etc, this could be ancillary to the main sales garage, but in this case, there is no evidence that is

how the land was used. It seems to have been primarily storage with occasional movements for sales or scrap or whatever.

12. From the aerial photographs this seems to have begun by April 2015 and carried on until Mr Merriner left. It could not have begun before February 2014, because at that date the car sales had ceased and the site was being used for his personal use. When Mr Merriner left is somewhat uncertain. Mr Evans says he visited on 17 March 2025 as that was the date he picked up the keys to Slipway. However, he does not say he picked them up from Mr Merriner. As far as I know no-one admits to having met Mr Merriner except Mr Simpson. The Council say the tax liability stopped in January 2025 so this was when he left. Sharon Evans admitted the record keeping was somewhat shambolic (there is certainly no paper trail to support any of Mr Merriner's dates), so he could have left in January leaving Mr Evans to collect the keys in April.
13. This is only important because the Council argue there is a gap between Merriner leaving and SDF beginning to store the IBCs, if indeed that could be called storage? The IBCs clearly aren't on the site in their current position in August 2025 as shown by the aerial photograph. However, Mr Evans, supported by the planning agent Mr Nicholls, say they were first delivered in April 2025, but stored under the tree canopy by the gate, hence not showing up in the aerial. For some reason they were then moved and the Council's October 2025 site visit photographs show them in their current position. Mr Evans says they were moved following the break-in as they were surrounded by rubbish that had been dumped. This was in May or June. However, when shown the aerial from August he changed his mind and said the break-in must have been after August. It seems odd not to know the date of the break-in, and that Mr Nicholls took no photographs, especially as he said he was specifically instructed by SDF to look into the storage use which was why he was certain the IBCs were there in April. Nevertheless, I have no real reason to doubt his evidence given under oath.
14. What this amounts to is that on the appellant's testimony the Merriner storage use ceased in April 2025 and within a week the SDF storage use began. The Council would argue there was a gap from January to April which would be fatal to the 10 years. In fact no-one gave any evidence as to when the Merriner use ceased, it is assumed it was at the same time as he vacated Slipway cottage, but given that he was evicted (according to the witnesses) he may have moved the vehicles sometime before actually being forced out of the cottage. The last aerial photograph to show vehicles is dated June 2024. Another fact we simply, and somewhat surprisingly, do not know.
15. However, this only matters if the placing of the IBCs on the land amounts to a continuation of the storage use. I have two problems with this, firstly, they don't seem to be stored but rather, as the Council said, dumped. They have been there for over a year without being moved, or indeed without any other use being made of the site. Mr Evans said they were moved onto the site to free up space at one of their other sites, but they take up so little room this does not seem very likely. No other use has been made of the site or the IBCs. Secondly, because the B8 use was not established by the time SDF took over, they needed to maintain a storage use and I do not think a single visit to put a few IBCs in one very small part of the site amounts to a B8 use. Put another way, had there been no use before 2025 I doubt the Council could issue an enforcement notice today, to allege a change of use to storage on the basis of a few IBCs. If I ignore the pile of illegally

dumped waste the rest of the site is strewn with disused materials, left over, presumably, from Mr Merriner, disused and falling down sheds, an empty lorry body and a large cylinder, which also seemed to be dumped. None of this says B8 storage use to me.

16. Mention is made of also storing old machinery, but I could see no machinery on my site visit, nor was any pointed out in the Council's October 2025 photographs. I think this must refer to Mr Evans' proof, where he says it was the intention of SDF to either use the site for storage of IBCs and old machinery or let it to another party. As far as I am aware no old machinery has been stored on the site.
17. Turning to the planning unit. It is easiest to consider that in the light of the above evidence. In 2012 it seems from the aerials that the appeal site, Slipway Cottage and the waste land to the north all formed a single planning unit. In April 2015, the appeal site was beginning to be separated from the rest of the land and a clear boundary is created by June 2015 that remains more or less constant thereafter. There may have been considerable porosity between Slipway Cottage and the site, parts of the boundary seemed always to have been open, and people visited Slipway by going first to the site and walking across, but that does not make the two linked in some way. Slipway Cottage and its garden were in residential use and the site was in storage use. There is no evidence as far as I can tell that the storage use spilled over into the garden, or that it was in some way ancillary to the domestic use of the Cottage. This is an example of the third Burdle¹ test where a single site in one ownership has become clearly separated out into 2 units and a new use established in the second planning unit. In this case the appeal site became separate from Slipway cottage by June 2015 and a storage use began sometime around then.

Conclusion

18. The appeal site and Slipway cottage were a single planning unit until June 2015, when a separate planning unit was established known as the appeal site. Whether there was any storage on that land before this date does not matter as that cannot count towards the 10 year period for the appeal site. There seemed to have been a storage use established by June 2015, but that ceased when Mr Merriner left the site, sometime between January and April 2025. Since then the site has not been used for storage purposes. Thus it follows the site has not been used for 10 years continuously for storage purposes and the Council were correct not to issue the LDC applied for.

Simon Hand

INSPECTOR

¹ Burdle v SSE [1972] 3 All E.R. 240

APPEARANCES

FOR THE APPELLANT:

Jackson Sirica – he called

George Simpson

Richard Evans

Sharon Kirby

Paul Nicholls RTPI

FOR THE LOCAL PLANNING AUTHORITY:

Izindi Visagie

DOCUMENTS

1. LPA Openings
2. Appellant's openings
3. LPA Closings
4. Appellant's closings