Planning Inspectorate

Appeal Decision

Site visit made on 22 October 2026

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2026

Appeal Ref: APP/L3815/X/25/3359565
Kingfishers, A259 Eastbound, Merston, Oving, Chichester, West Sussex PO20 1EH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Robert Walker against the decision of Chichester District Council.
- The application ref 0/24/01070/ELD, dated 14 May 2024, was refused by notice dated 16 December 2024.
- 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 described on the application as "C3 – Dwellinghouses."

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description above from the application form. The Council redescribed the application as "continued use of the site as two dwellinghouses" and the appellant use the following on the appeal form "Application for lawful development Certificate-Existing Lawful Development-Kingfishers and Yvanne as two dwelling units." I am therefore considering whether at the date of the application, the property could lawfully be used as 2 dwellings.

3. The Council registered the application on 7 June 2024 although it had been submitted and dated on 14 May 2024.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant a certificate was well founded. The appellant needs to demonstrate that the property has been used as 2 dwellinghouses continuously for the relevant immunity period. The appellant needs to demonstrate that the property has been in use as two separate dwellinghouses continuously for the relevant immunity period.d. There is no dispute between the main parties that the applicable period in this case is four years. As the application was submitted on 14 May 2024, the material date is therefore 14 May 2020 for each of the properties.

Reasons

5. I carried out an unaccompanied site visit and so did not enter the property. From the outside, the single storey building looks like 2 semi-detached bungalows with separate entrances. The front gardens and parking areas are separated by

fencing. Submitted photographs show that the rear garden is separated into 2 as well, each half serving one of the properties.

6. The submitted plan dated 2022 entitled 'Plan and Elevations as existing' shows interconnection between the 2 properties. Although no front door is shown, differing from what I saw for 'Yvane', there is a rear door. Each half is shown as having all the necessary living facilities including bedrooms, living spaces, kitchens and bathrooms. The interconnection is shown as being via one door linking a bedroom in 'Kingfishers' and a hallway of 'Yvane'. The interconnecting doorway means that the building is capable of functioning either as a single dwelling or as two separate dwellings. Consequently, the plan evidence alone is imprecise. Whilst the appellant refers to proposed alterations to the interior, this appeal concerns whether the use of the property as two dwellings was already lawful on the date of the application.

7. The appellant's supporting information refers to the Council having charged Council tax for 14 years as 2 separate properties. The appellant's evidence does not establish with sufficient precision when the property was occupied as a single dwelling and when it was occupied as 2 separate dwellings during the relevant period. The nature of any occupation during any periods when it has been used as 1 property is not elaborated upon in terms of whether the 2 halves were used by utilising of the internal interconnecting door.

8. The Council tax registration does not demonstrate actual occupation and the considerations under that separate legislation does not provide lawfulness for planning purposes. I need to concern myself with what has physically existed along with how the property has been occupied. The evidence relating to occupiers, including tenancy agreements, is not complete throughout the relevant period.

9. Taken together, the evidence does not provide a sufficiently precise and unambiguous account of the physical use and occupation of the property during the relevant period. Accordingly, I am not satisfied on the balance of probabilities, that the property was occupied and used as two separate dwellinghouses continuously throughout the relevant period beginning before the material date.

Conclusion

10. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for C3 – Dwellinghouses 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).

Andy Harwood

INSPECTOR