Planning Inspectorate

Appeal Decision

Site visit made on 9 November 2026

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2026

Appeal Ref: APP/W2845/X/25/3368893

West Barn, Wilds Farm, Tiffield Road, Gayton, Northampton NN7 3HH

- 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 A Kirkpatrick against the decision of West Northamptonshire Council.
- The application ref 2025/1060/LDE, dated 3 March 2025, was refused by notice dated 30 April 2025.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
- The use for which an LDC is sought is occupation of a building as a dwellinghouse.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Appellant has made an application for an award of costs against the Council. This application is the subject of a separate Decision.

Reasons

3. West Barn is a dwelling with a large garden. Planning permission S/2010/0875/FUL was granted on 1 September 2010 for 'Building for use as a home office at West Barn, Tiffield Road, Gayton'. The building was erected within the garden and in a location remote from the dwelling. Condition 3 of the permission is 'The home office hereby permitted shall only be used as a personal office incidental and in connection with the dwelling known as West Barn and shall not be used for any other purpose, including as a separate residential unit'.

4. In a statutory declaration dated 23 April 2024 the Appellant's daughter, Ms K Kirkpatrick, states that "…I have been occupying the garden room/home office building since 1st of July 2019" and "I have occupied the building…continuously as my permanent residence to this day". The Appellant therefore claims that the building has been in use as a dwellinghouse for in excess of four years and that this use is therefore immune from enforcement action. It is first necessary, however, to consider whether the building is, in fact, a dwellinghouse.

5. The principal legal authority on this matter is *Gravesham BC v SSE & O'Brien [1983] JPL 306* (*Gravesham*) which established that 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. The appeal building has a kitchen but no sanitary accommodation. The Appellant's Agent has explained that Ms Kirkpatrick "…relied on a portable chemical toilet that was emptied…into a manhole…" and that she "…had access to bathroom facilities in…West Barn which forms the host property".

6. On the Appellant's own evidence, occupation of the appeal building by Ms Kirkpatrick was dependent on access to bathroom facilities in West Barn. She may have occupied the building as her permanent residence but she was reliant on that access to support and maintain her occupation. Her occupation was not wholly independent and, applying the *Gravesham* test, the appeal building did not afford to her the facilities required for day-to-day private domestic existence. The appeal building was not, and remains not, a dwellinghouse.

7. The Appellant's Agent has referred to an appeal decision which granted an LDC for 'residential occupation of a dwellinghouse' where toilet facilities were a portable toilet that was emptied into a cesspit. But the Officer Report referred to the building containing a bathroom so the circumstances in that case were different to the circumstances in this case. Neither the appeal decision nor any other matters referred to alter the conclusion that the appeal building is not a dwellinghouse.

8. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for occupation of a building as a dwellinghouse at West Barn, Wilds Farm, Tiffield Road, Gayton, Northampton was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector