Planning Inspectorate

Appeal Decision

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2026

Appeal Ref: APP/B9506/X/24/3354335
Little Bourne, Off Balmer Lawn Road, Brockenhurst, Hampshire, SO42 7TS

- 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 and Mrs Hill against the decision of New Forest National Park Authority.
- The application ref 24/00464LDCE, dated 24 April 2024, was refused by a notice dated 5 September 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 use as a self-contained single dwellinghouse (Use Class C3).

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 and Mrs Hill against New Forest National Park Authority. This application is the subject of a separate decision.

Preliminary Matter

3. Considering the matters at appeal it was not necessary for a site visit to be conducted. I have thus made my decision based on the evidence submitted as part of the application and appeal process.

Main Issue

4. Section 191(4) of the Town and Country Planning Act, 1990 (as amended) (the Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that at the time of the application of the use, operations or other matters described in the application, or that description modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application. The planning merits of the development are not relevant in this appeal, and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful use or Development (LDC) was well-founded. In this case that turns on whether the appellants can demonstrate, on the balance of probability, that the use of the appeal site as a dwellinghouse occurred and has continued in use as a single dwellinghouse for a period of four years prior to 24 April 2024.

5. It is established case law that the appellant's evidence does not need to be corroborated by 'independent' evidence for it to be accepted. In the event that there is no evidence to contradict the appellant's version of events, an LDC should

be issued. However, the appellant's own evidence must be sufficiently precise and unambiguous to justify a grant of an LDC, on the balance of probability.

Summary of Cases

Appellant's Case

6. It is the appellants' case that the property known as "Little Bourne" has been occupied as a single dwellinghouse since 30 March 2020. Its use as a single dwellinghouse has continued since that date without any significant interruption and at the time of the application and appeal it remains in that use.

7. Evidence to support the appellants' case includes two separate Statutory Declarations (SD) from previous tenants and details of bank payments and related Whatsapp messages from those tenants. Records of bookings taken by "Travel Chapter" who took over the bookings of the property and from Airbnb have also been provided.

The Authority's Case

8. The National Park Authority (NPA) refused the application because they considered that, on the evidence available, the NPA could not be satisfied, on the balance of probabilities, that the appeal property has been occupied as a self-contained dwellinghouse for a continuous period of four years prior to the date of the application (i.e. 24 April 2024)[1].

9. It is clear from the Delegated Officer Report and acknowledged in the NPA's Statement of Case, that the NPA had not seen, or considered, all the evidence provided by the appellants in their LDC application. In particular, the details of bookings taken by Travel Chapter and Airbnb. Nevertheless, the NPA maintain that even if they had had regard to that information, they would still have refused the application because of the absence of any Council Tax records or separate utility bills for the property. In their view, the absence of separate utility and Council Tax payments mean the property does not operate as an independent, self-contained dwelling capable of self-sufficient occupation. It is the NPA's view that the property is an annex to the adjoining dwelling and there is thus a mixed use of C3 Use and short-term visitor accommodation.

Reasoning

10. The appeal property is a single storey former garage which has been converted to provide residential accommodation for holiday or short term lets. It is a self-contained unit, with accommodation comprising a living room, dining and kitchen area, double bed and bathroom on the ground floor, with a mezzanine above providing additional bed space. There is a dedicated car parking space adjacent to the property. There is no dispute between the parties that the accommodation provides all the facilities for day-to-day living and is thus a dwellinghouse[2]. The absence of independent utilities does not prevent the property from being a dwellinghouse. It is not unusual for separate dwellings to share utilities and for a portion of the rent to be attributable to those services. Similarly, the absence of a separate Council Tax record does not necessarily indicate that the property has not been occupied as a separate dwelling. From the evidence available, and having

[1] NPA Decision Notice, dated 5 September 2024.
[2] *Gravesham BC v SSE* [1982] P&CR 142.

regard to *Burdle*[3], the appeal dwelling is physically and functionally a separate unit of occupation and a single planning unit.

11. Considering my finding above, and as set out in my main issue, in order to grant a LDC the appellant must demonstrate, on the balance of probability, that the appeal property has been occupied as a dwellinghouse for a continuous period of four years prior to the date of the application.

12. The appellants' evidence includes SDs from two tenants, bank statements to show rent paid by those tenants and WhatsApp messages relating to the tenants' occupation of the property. Taken together, that evidence indicates that the appeal property was first occupied between 30 March 2020 and 24 September 2020. The second tenant moved in on 25 September 2020 and left at the end of February 2021. The evidence submitted is sufficiently precise and unambiguous to establish continuous occupancy between 30 March 2020 and the end of February 2021.

13. The appellant advises that following maintenance works at the property during March 2021 they utilised the services of a company known as Travel Chapter to administer the bookings for the property. A log of the bookings and payments taken between 8 April 2021 and 29 February 2024 has been provided. The log refers to the property as Little Bourne and shows details of the registration and annual fee for the booking services, details of the customers names, booking references and payments made in association with those customer bookings. It also shows the commission taken from the booking company and VAT paid. Whilst the log does not show the actual dates of arrival/departure for each customer, the payment runs have been taken weekly and there are clearly entries for at least one booking each week throughout that period. The Airbnb records also show a reservation and payment for occupancy for the beginning of March 2024. Thus, and in the absence of any evidence from the NPA which might indicate otherwise, the evidence is sufficiently precise and unambiguous to demonstrate on the balance of probability that Little Bourne is a single dwellinghouse which has been occupied without significant interruption for a period of at least four years prior to 24 April 2024 when the LDC application was made.

Conclusion

14. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for use as a self-contained single dwellinghouse 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 1990 Act (as amended).

Elizabeth Pleasant

INSPECTOR

[3] *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207

Planning Inspectorate

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 24 April 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red 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 conversion to a single dwellinghouse took place prior to 24 April 2020 and its use as a single dwellinghouse continued for at least 4 years from 30 March 2020 without significant interruption such that it is too late to take enforcement action.

Signed

Elizabeth Pleasant

Inspector

Date: 28 October 2026
Reference: APP/B9506/X/24/3354335

First Schedule

Use of the property as a self-contained single dwellinghouse.

Second Schedule

Land at Little Bourne, Brockenhurst, SO42 7TS

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.

Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 28 October 2026

by Elizabeth Pleasant

Land at: Little Bourne, Brockenhurst, SO42 7TS

Reference: APP/B9506/X/24/3354335

Scale: Not to Scale

