



Appeal Decision

Site visit made on 18 March 2025

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04th April 2025

Appeal Ref: APP/W9500/X/24/3353299

Beak Hill Farm, Kirkby to Raisdale, Chop Gate, North Yorkshire TS9 7JJ

- 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 Dexter Pollard against the decision of North York Moors National Park Authority.
 - The application ref NYM/2022/0836, dated 16 November 2022, was refused by notice dated 5 August 2024.
 - The application was made under section 191(1)(a) of the Act
 - The use for which a certificate of lawful use or development is sought is farmhouse as a bed and breakfast, use of part of a field for camp site and amenity block.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse a LDC was well founded.

Reasons

3. Section 191(2)(a) of the Act provides that uses and operations are lawful at any time if no enforcement action may then be taken in respect of them, whether because they did not involve development or require planning permission, or because the time for enforcement action has expired or for any other reason.
4. With regard to use of land section 171B(3) of the Act states that no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach. Therefore, in this case, in order to be lawful the use described must have commenced at least 10 years before the application date (hence before 16 November 2012) and continued without any significant interruption thereafter for at least a 10 year period of time.
5. The burden of proof is on the appellant and the relevant test is the 'balance of probability'. If the local planning authority has no evidence itself to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to refuse the application, provided that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probabilities. It is therefore necessary to consider whether, on the facts of the case and relevant planning law, the specific use for which a certificate is sought was lawful at the date of the application.
6. The appellant claims that the appeal site has been used for camping and as a Bed and Breakfast (B&B) since before 1995 and therefore the use of the site has accrued immunity from enforcement action over the passage of time. The submitted evidence

to establish this includes witness statements, reviews and advertisements. This evidence is examined in the following paragraphs.

7. Several witness statements have been submitted. Roseworth Accountancy has detailed that Mrs Cook has provided camping and B&B facilities at Beak Hills Farm since 1995 with Mr Cooks mother providing these facilities before 1995. Mr Cook, in his statement, provides a brief history of the site including that his mother provided camping and B&B facilities in the 1980's and 1990's, and that this camping and B&B still continues to now. A statement from Robin and Jenny Smith details that Mrs Cook has ran a B&B since before 2008 and that they worked closely, often referring guests to Mrs Cook and also using the Sherpa Van website to promote the B&B. Mr and Mrs Wilson provide a statement detailing that Mrs Cook has provided B&B accommodation for over 20 years and that they also did B&B accommodation for guests which could not be accommodated by Mrs Cook. These witness statements do provide an overview that B&B accommodation has been provided at the appeal site however, there is no substantial evidence that this has been undertaken for a continuous uninterrupted period of 10 years. These statements also do not provide compelling evidence that camping has been undertaken from the site.
8. Around 20 reviews of camping and B&B accommodation at the appeal site has been submitted. These include written reviews, photos and video logs from websites including ukcampsite.co.uk, YouTube, campsited.com and TripAdvisor. The date of these reviews ranges from 2010 to 2022, which averages as under 2 reviews each year, although it is noted that there are some years in this time range where no reviews have been provided as evidence. This does not provide me with compelling evidence that camping and B&B accommodation has been undertaken at the appeal site for a continuous 10 year period.
9. The appellant has provided various advertisements which indicate camping and B&B accommodation available at Beak Hill Farm, from sources including the National Trail website, Coast to Coast Guide, 2019 Cleveland Way Walking Guide, articles from Google, and Cleveland Way Accommodation & Information Guide. Whilst the National Trail website information does not have a specific date attached to it, the other evidence ranges from around 1999 to 2019. There are significant gaps in this time range including no evidence of advertisements between 2015 and 2019, and also after 2019. Therefore, a continuous period of camping and B&B accommodation being in use at the appeal site for 10 years has not been shown.
10. Accordingly, having regard to all of the evidence before me in this appeal, I find as a matter of fact and degree and on the balance of probability, that the whole of the appeal site has not been in use as a B&B and camping for more than 10 years before the date of the application.

Conclusion

11. I conclude on the balance of probability, that the Council's refusal to grant a LDC in respect of the use of the farmhouse as a B&B, use of part of a field for camp site and amenity block at Beak Hill Farm was well-founded and that the appeal should fail. I exercise accordingly the powers transferred to me under section 195(3) of the Act.

Chris Baxter

INSPECTOR