



Appeal Decision

Site visit made on 23 October 2025

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 28th October 2025

Appeal Ref: APP/Y2430/X/24/3352293

61 Main Road, Kirby Bellars, Melton Mowbray LE14 2DU

- The appeal is made by Eric's Fuels Ltd under section 195 of the Town and Country Planning Act 1990 against a refusal by Melton Borough Council to grant a lawful development certificate.
 - The application Ref: 24/00113/CL, dated 2 February 2024, was refused by notice dated 12 July 2024.
 - The application was made under section 191(1)(a) and (c).
 - The development for which the certificate is sought is "Existing use of Flat 1 and Flat 2 as permanent residential properties. Siting and use of Mobile Home as permanent residential property".
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use relating to the development described in the application, which I consider to be lawful at the time of the application.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on the lawfulness of the uses of Flats 1 and 2 and the mobile home at the time of the application. The planning merits of the uses are not relevant to the appeal and there are no planning applications before me.
 3. The reason given by the Council for the refusal of the application is as follows:-
"The Applicant has failed to demonstrate on the balance of probability that under Sections 191 and 193 of the Town and Country Planning Act 1990, the use of Flat 1 and Flat 2 as permanent residential properties and the siting and use of the Mobile Home in permanent residential use with relevant supporting information and evidence of the particulars to the satisfaction of the Local Planning Authority and therefore the application is refused."
 4. Flats 1 and 2 were approved on 12 September 2005 as extensions to 61 Main Road "to provide holiday accommodation in conjunction with equestrian facility" (planning permission ref: 05/00653/FUL). The mobile home does not have any planning permissions.
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5. Condition 3 of permission 05/00653/FUL is as follows: -

"The accommodation hereby permitted shall not be used other than for holiday letting. For the purpose of this condition 'holiday let' means letting to the same person, group of persons or family for a period not exceeding 28 days in any one calendar year and the accommodation shall not be used as the main residence of any occupant."

6. The applicants claim that the use of the flats as their occupants' main residences is lawful because the time for taking enforcement action in respect of the failure to comply with Condition 3 has expired. They claim that the stationing of the mobile home and its use as a permanent residence are lawful since no enforcement action can be taken in respect of these matters because the time for enforcement action has expired.
7. The time limit was 4 years in the case of the flats, since they are self-contained and are single dwellinghouses (see section 171B(2) prior to its amendment on 25 April 2024 and *FSS v Arun DC & Brown* [2006] EWCA Civ 1172). The time limit was 10 years as respects the mobile home. In each case, the period begins with the date of the breach of planning control and the use must have continued throughout the requisite period. The immunity obtained as a result must not subsequently have been lost through some event sufficient to terminate it.
8. The Government's planning practice guidance relating to lawful development certificates states that the applicant for the certificate is responsible for providing sufficient information to support the application. It adds: -
- "In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."
9. In the present appeal, the Council have not produced any such evidence. In fact, the evidence they hold confirms "the installation and occupation of a caravan" on the site in 2004 and that the caravan was still occupied in 2008. The applicants have, however, provided a substantial amount of supporting information, both before and after the Council's decision. This consists of statutory declarations, personal statements and rental documents. I have examined these to ascertain whether they are "sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability" and concluded that they are for the following reasons: -
- Flats 1 and 2 were built following the grant of planning permission in 2005 and were at first advertised for letting in accordance with the condition, but few bookings were made. The condition was breached in 2007. Since then up to the time of the application, Flat 1 was occupied by a number of tenants as their main residence, with only short intervals between tenancies, and Flat 2 was occupied continuously by the same person as his main residence.

- The mobile home was installed on the property in 2001 and by the time of the application it had been occupied continuously since then for residential purposes with only short intervals between tenancies.
10. The time for enforcement action has therefore expired in each case and the immunity obtained as a result has not been lost. I am satisfied that the Council's refusal of the application is not well-founded. The appeal has therefore been allowed and a certificate of lawful use has been granted.

D.A.Hainsworth

INSPECTOR



Certificate of Lawful Use

APPEAL REFERENCE APP/Y2430/X/24/3352293
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39 & SCHEDULE 8

IT IS CERTIFIED that on 2 February 2024 the uses described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and shown edged and hatched in black and edged in black around black stipple on the plan attached to this certificate were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990, for the following reason:

No enforcement action could then have been taken in respect of the uses because the time for enforcement action had expired.

D.A.Hainsworth

INSPECTOR

Dated: 28th October 2025

First Schedule

1. The use of Flats 1 and 2 as main residences.
2. The use of land for the stationing of one mobile home for residential use.

Second Schedule

61 Main Road, Kirby Bellars, Melton Mowbray LE14 2DU

Notes

1. This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990.
2. It certifies that the uses described in the First Schedule taking place on the lands specified in the Second Schedule was lawful on the specified date and, therefore, was not liable to enforcement action under Part VII of the 1990 Act on that date.
3. This certificate applies only to the extent of the uses described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any uses that are materially different from those described or which relate to any other land may render the owner or occupier liable to enforcement action.



Plan attached to Certificate of Lawful Use

61 Main Road, Kirby Bellars, Melton Mowbray LE14 2DU

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This is the plan attached to the Certificate of Lawful Use
dated: 28th October 2025

D.A.Hainsworth

Inspector

