
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: 30th October 2025

Appeal Ref: APP/X2410/X/24/3348761

Land and moorings adjacent to Farnham Bridge Farm, 1041 Loughborough Road, Rothley, Leicestershire LE7 7NL

- The appeal is made by Mrs Jane Savage (Campbell) under section 195 of the Town and Country Planning Act 1990 against a refusal by Charnwood Borough Council to grant a certificate of lawful use or development.
- The application Ref: P/23/1194/2 dated 29 June 2023 was made under section 191(1).
- The application was revised in 2024 and the revised description of the developments for which the certificate was sought is: -

"The use of, and building works on, the area of the Land shaded orange on Plan 3, for:

a) the construction and use of 4 no. residential boat moorings, together with the associated use and management of the adjoining land including the erection of raised decking (to a maximum level of the spot heights shown on Plan 3), single storey ancillary residential buildings and other structures edged and labelled within the area shaded orange on Plan 3.

The use of, and building works labelled on, the area of the Land shaded purple on Plan 3, for:

b) improvements to hardstanding area, and the use for incidental parking of vehicles and siting of containers to store land management equipment:

And:

The use of, and building works labelled on, the area of the Land shaded green on Plan 3, for:

c) use and management for amenity purposes including tree planting and the use and creation of a hard surfaced track."

- The application was determined by a split decision issued by the Council on 2 April 2024. The Council granted the application in respect of development a) on the basis that the time allowed for enforcement action had expired, but refused to grant the application in respect of developments b) and c).
 - The appeal is made against the refusal of the application for developments b) and c), on the basis that the time allowed for enforcement action has also expired in respect of the developments b) and c).
-

Decision

1. The appeal is allowed insofar as it relates to the creation and use of the hard-surfaced track described in the application and is dismissed in all other respects.
2. Attached to this decision is a lawful development certificate relating to the hard-surfaced track which I consider to be lawful at the time of the application.

Reasons for the decision

3. Section 195 requires an assessment to be made as to whether the Council's refusal of part of the application is or is not well-founded. The assessment is based only on the lawfulness of developments b) and c) at the time of the application. The planning merits of the developments are not relevant to the appeal. There are no planning applications before me and I am unable to consider any proposals of the kind discussed by the appellant with the Council during mediation.

4. The reasons given by the Council for the refusal of part of the application are as follows:

"It is considered that insufficient evidence has been provided to demonstrate that on the balance of probability that:

1. the uses described in the Second Schedule have taken place on the Land continuously for ten years preceding the date of the application; and

2. the building works described in the Second Schedule were substantially completed more than four years before the date of the application and were not integral to a change of use of the Land occurring within the ten years preceding the date of the application."

[Note. The Second Schedule describes developments b) and c).]

5. I have considered all the written material I have received and taken into account everything I saw during my visit. This has led me to conclude, on the balance of probabilities, that what has occurred over a period of time is as follows: -

- In or around 2004 excavated material was spread over the hardstanding area and over the area of the hard-surfaced track. This work can be discerned by comparing the aerial images of 2000, 2006 and 2011. The spreading of this material was operational development and the 4-year period allowed for taking enforcement action in respect of it had expired at the time of the application for the certificate.
- By the time of the aerial image of 2016 the areas where the excavated material had been spread were barely discernable because they had become overgrown.
- During 2016, the whole of the Land described in the application was transferred to occupiers of development a). The hardstanding area was cleared of overgrowth; various items, including storage containers and equipment which had previously been kept elsewhere, were moved on

to this area and more of the excavated material was spread on this area to facilitate this use. This activity was a breach of planning control to which the '10-year rule' applies and the period allowed for taking enforcement action had not expired at the time of the application.

- The images of the hard-surfaced track show that its visibility from the air has varied according to the extent to which there has been grass covering it. It appears in other respects not to have altered since it was laid in approximately 2004 and it was visible beneath the grass at the time of my visit. It has been in use as a means of access to development a) since it was laid. The period allowed for taking enforcement action against it had expired at the time of the application.
 - The use and management of development c) for amenity purposes did not take place before 2016 on a scale that could have amounted to a material change of use of this area for planning purposes. More activity has taken place here since then, but the '10-year rule' applies and the period allowed for taking enforcement action in respect of this matter had not expired at the time of the application.
6. The time for enforcement action has therefore not expired except in relation to the hard-surfaced track. I am satisfied that the Council's refusal of the application is well-founded in all other respects. The appeal has therefore been allowed only to the extent of the track and a certificate of lawful development has been granted for it.

D.A.Hainsworth

INSPECTOR



Lawful Development Certificate

APPEAL REFERENCE APP/X2410/X/24/3348761
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 29 June 2023 the development 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 cross-hatched in black on the plan attached to this certificate was 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 development because the time for enforcement action had expired.

D.A.Hainsworth

INSPECTOR

Dated: 30th October 2025

First Schedule

The creation and use of a hard-surfaced track.

Second Schedule

Land adjacent to Farnham Bridge Farm, 1041 Loughborough Road, Rothley, Leicestershire LE7 7NL

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 development described in the First Schedule taking place on the land 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 development described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any development that is materially different from that described or which relates to any other land may render the owner or occupier liable to enforcement action.



Plan attached to Lawful Development Certificate

Land adjacent to Farnham Bridge Farm, 1041 Loughborough Road, Rothley, Leicestershire LE7 7NL

Appeal reference: APP/X2410/X/24/3348761

This is the plan attached to the Lawful Development Certificate dated: 30th October 2025

D.A.Hainsworth

Inspector

