



Appeal Decision

Site visit made on 4 November 2025

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/F4410/X/25/3362756

6 Shires Close, Sprotbrough, Doncaster DN5 7RG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") against a refusal to grant a certificate of lawful use or development ("LDC").
 - The appeal is made by Mr David Walton against the decision of the City of Doncaster Council.
 - The application ref 24/02108/CPE, dated 12 November 2024, was refused by notice dated 24 January 2025.
 - The application was made under section 191(1)(b) of the 1990 Act.
 - The development for which a LDC is sought is the "installation of air source heat pump".
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr David Walton against the City of Doncaster Council. An application for costs has also been made by the City of Doncaster Council against Mr David Walton. These applications will be the subject of separate decisions.

Preliminary Matters

3. The Council's decision notice refers to the application dated 9 December 2024. However, the application form is dated 12 November 2024. I have therefore, referenced the latter date in the banner heading above.
4. At the time the LDC application was made, the air source heat pump ("ASHP") was located to the first floor of the appeal property. During my site visit I saw that the ASHP had been relocated to the ground floor. I am required to consider whether the matter was lawful on the date the LDC application was made and therefore, I must determine the appeal with reference to the ASHP being sited in its original location to the first floor of the property.

Main Issue

5. The main issue is whether the Council's decision to refuse to grant a LDC for the installation of an existing ASHP was well-founded.

Reasons

6. The ASHP was erected without obtaining planning permission. Consequently, the Council issued an enforcement notice ("EN") requiring the ASHP to either be removed or relocated to a position that complied with Schedule 2, Part 14, Class G of the Town and Country Planning (General Permitted Development) (England)

Order 2015 (“GPDO”). The appellant and another appealed the EN¹. The Inspector upheld the EN, dismissed the appeals and refused planning permission on the application deemed to have been made under s177(5) of the 1990 Act.

7. Section 191(2) of the 1990 Act states:

“For the purposes of this Act uses and operations are lawful at any time if—

(a) 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); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.”

8. There are therefore two limbs to be satisfied before an existing development can be found to be lawful.
9. The compliance period for the EN was one month from the date of the Inspector’s decision. The evidence before me indicates that the appellant had failed to comply with the requirements of the EN on the date the LDC application was made and as such, the EN was still in force. Consequently, the LDC for the existing ASHP would be a contravention of the requirements of the EN and therefore the second limb of s191(2) would not be satisfied.
10. The appellant accepts that the ASHP cannot be granted under s191(2) of the 1990 Act, but asserts they are seeking a determination under s191(4) of the 1990 Act. S191(4) sets out that the local planning authority must either issue a certificate or a refusal when determining an application under s191(2). Consequently, I am unclear how s191(4) of the 1990 Act is of relevance to this appeal.
11. The appellant has provided information pertaining to how the ASHP complies with Schedule 2, Part 14, Class G of the GPDO. However, as both limbs of s191(2) must be satisfied, it is not necessary for me to determine whether the ASHP did not require planning permission under the first limb.
12. For these reasons, the ASHP fails the test of lawfulness as set out in s191(2)(b) of the 1990 Act.

Conclusion

13. For the reasons given above, I conclude that the Council’s refusal to grant a LDC for the installation of the ASHP is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in s195(3) of the 1990 Act.

A Berry

INSPECTOR

¹ Appeal Refs APP/F4410/C/21/3287668 and APP/F4410/C/21/3287669