



Appeal Decision

Site visit made on 11 November 2025

by **Chris Baxter BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th December 2025

Appeal Ref: APP/W9500/X/24/3339980

Land at Front Street, Grosmont, North Yorkshire YO22 5PQ

- 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 James Wallis against the decision of North York Moors National Park Authority.
 - The application ref NYM/2023/0472, dated 18 July 2023, was refused by notice dated 30 August 2023.
 - 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 use of land as garden.
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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 18 July 2013) 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 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 contends that the appeal site which sits to the south of Front Street, has a use as a garden, and that this use has accrued immunity from enforcement action over the passage of time. The appellant claims in their statement of case that the use of the site as a garden commenced prior to July 2013 with evidence to establish this including photographs, plans, aerial maps, letters and emails of support, statutory declarations from previous owners as well as the appellant.

7. A statutory declaration from a Nora Scaife Davy, dating back to November 1975 states that *"I have always considered that the piece or parcel of land (ie. the appeal site)... was included in the Conveyance and that it was intended to be occupied and enjoyed with the property known as Number 6 Front Street Grosmont aforesaid even though no specific reference was made to the plot."* The declaration continues by stating "Since purchasing the property specifically referred to in the Conveyance I have occupied the plot and used the same in the manner of a beneficial owner without any adverse claim or possession being made against me to my knowledge". Whilst the statement in this declaration implies the appeal site is somewhat linked to the property of 6 Front Street, there is no substantial admission that the site was actually used as garden land for a continuous uninterrupted 10-year period of time.
8. The appellant details that the appeal site was purchased from a Melvyn Davidson in 2016. Melvyn Davidson, in an email, states *"I have looked for any details but only have the 1976 purchase invoice. When I purchased the land and was repairing the fence it was used as a garden although a little overgrown, I was hoping to move out there and use it as a garden as a lot of the houses there don't have gardens"*. This statement has inconsistencies as it initially indicates that the land was used as a garden but contradicts itself by stating that *"I was hoping to move out there and use it as a garden"*. I am not convinced from this evidence that the site has been used for a 10-year uninterrupted period as garden.
9. The appellant has made a statutory declaration claiming that the land has been used continuously for 41 years between the years of 1975 to 2016 as domestic garden to grow and show vegetables and from this, Melvyn Davidson has won various prizes. The growing and showing of vegetables is not sufficient evidence that the site has been in residential use, as it could have been in use as an allotment. Nevertheless, there is no substantial information to show that the appeal site was used as garden for a continuous 10-year period.
10. A variety of plans, photographs and aerial maps have been produced, although there is nothing significant which I have before me which confirms garden use of this land. Evidence submitted suggests that neighbouring plots are in garden use with them having greenhouses and garden huts. The appellant also details they have been trying to get permission for garden huts and decking, although there are no specific details that such permission has been obtained. There is minimal evidence however, indicating any specific garden use of the appeal site, for a continuous uninterrupted period of 10 years from July 2013 or prior to this date.
11. Accordingly, having regard to all of the evidence before me, 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 a use as a garden for more than 10 years before the date of the application.

Conclusion

12. I conclude on the balance of probability, that the Council's refusal to grant a LDC in respect of the use of the land as garden 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