



Appeal Decision

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2026

Appeal Ref: APP/E2001/X/25/3374085

Storwood Nurseries, Hagg Lane, Storwood, East Riding of Yorkshire, YO42 4TF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful development (LDC).
 - The appeal is made by Mr Ian McClure against the decision of East Riding of Yorkshire Council.
 - The application ref 25/01268/CLE, dated 2 May 2025, was refused by notice dated 27 June 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful development is sought is the erection of a cabin building.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful development describing the existing operation which is found to be lawful.

Preliminary Matters

2. The description of development submitted to the Council was: the 'erection and the continued use of the property as a dwelling'. This was the development for which the appeal against the Council's refusal to issue an LDC was initially made. However, prior to the scheduled Inquiry, the appellant confirmed that he sought only to challenge part of the matters – being the erection of the cabin building. Having consulted the main parties, the description has been revised to that appearing in the banner heading above to best reflect the revised extent of development. I do not therefore consider the status of any site use in this decision. Furthermore, the Council has confirmed that, on the reduced grounds, the reason for refusal relating to 'deliberate concealment' is withdrawn.
3. Pursuant to the change to the contested issues in the appeal, a second Case Management Conference reconsidered the most appropriate appeal procedure. It was agreed between all parties that the matters could be properly dealt with through Written Representations. Furthermore, due to the case circumstances and past timing of relevant events referred to in the evidence, it was agreed that no site visit was necessary.
4. The appeal is made to ascertain whether the claimed development was lawful on the relevant date. As described in s191(2) of the Act '...uses and operations are lawful at any time if - (a) no enforcement action can be taken in respect of it, whether because it did not involve development or require planning permission, or because the time for enforcement action has expired, or for any other reason, and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force'. The relevant date for the purposes of assessing an application under s191(2) is the date of the application, as set out under s191(5). In this case the relevant date was 2 May 2025.

5. The burden of proof in satisfying the requirement of s191(1)(a) falls to the appellant. The appropriate standard for testing the evidence is made on the balance of probabilities, that is to say whether something is more likely than not.
6. The Planning Practice Guidance¹ reflects prior Court judgments. It sets out that an appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is sufficiently precise and unambiguous.

Main Issues

7. The main issues are:
 - whether or not works to construct the building were substantially complete for four years² or more prior to the relevant date.

Reasons

8. The appellant asserts that the cabin was constructed in November and December of 2014 and was substantially complete by the end of that year. This is supported by various dated trade invoices relating to external and internal fixtures and fittings provided at the address. The claim is consistent with aerial photography of the site provided by the appellant. The Council does not contest the appellant's version of events to that extent. I find no reason to disagree.
9. At the final comments stage of the appeal, the appellant introduced reference to a decking and covered outdoor area adjoining the cabin. He asserts that these have been in place for over 9 years. However, there is little evidence to support that proposition. Those features are not clear on the aerial photography provided. Moreover, as development not referred to in the initial description of development, they are outside of the scope of my considerations in the appeal.
10. There is also some dispute between the main parties as to the extent of any 'red edge' identifying the development the subject of the appeal. As the grounds on which the appeal against refusal to issue an LDC have been reduced to only the consideration of the operational development consisting of a cabin building, then it is only the extent of that building which should be identified in any LDC.
11. While I note the appellant's submissions on land ownership and references to various planning units by both parties, these are not relevant considerations in the reduced scope of the appeal. The address is that taken from the appellant's application form. Following *Sumner v SSCLG* [2010] EWHC 372 (Admin), the lawful use of the building would be limited to that of the lawful use of the land on which it sits; that is not a matter before me. It is open to the appellant to seek confirmation of any lawful use of the land through the same s191 mechanism relied upon here.

¹ Paragraph: 006 Reference ID: 17c-006-20140306

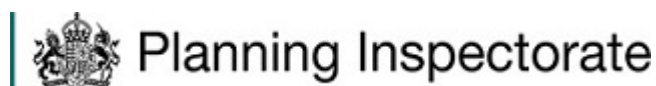
² For operational development substantially completed before 25 April 2024, the amendment of s171B(1) by the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 extending the time limits for enforcement action from 4 years to 10 years does not apply. The relevant period is 4-years on, or prior to, the relevant date.

Conclusion

12. For the reasons given above I conclude, on the reduced scope of development, that the Council's refusal to grant a certificate of lawful development in respect of the erection of the building (the cabin) was not well-founded and the appeal should succeed to that extent. I will exercise the powers transferred to me under section 195(2) and 195(3) of the 1990 Act as amended.

R Hitchcock

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 2 May 2025 the **operation** described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and **edged in red** on the plan attached to this certificate, **was** lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The evidence shows that the cabin building has probably existed on the site for a period of four years or more prior to the date of the application.

Signed

R Hitchcock

Inspector

Date: **12 January 2026**

Reference: APP/E2001/X/25/3374085

First Schedule

The erection of a cabin building

Second Schedule

Land at Storwood Nurseries, Hagg Lane, Storwood, East Riding of Yorkshire,
YO42 4TF

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operation described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operation described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 12 January 2026

by R Hitchcock BSc DipCD MRTPI

Land at: **Storwood Nurseries, Hagg Lane, Storwood, East Riding of Yorkshire, YO42 4TF**

Reference: **APP/E2001/X/25/3374085**

Scale: Not to Scale

