



## 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: 03<sup>rd</sup> February 2026

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### **Appeal Ref: APP/U2750/X/24/3351150**

### **Campsite at 2 Folly Gardens, Green Lane, Whitby, YO22 4EN**

- 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 Michael Walker against the decision of North Yorkshire Council.
  - The application ref ZF24/00065/CLE, dated 22 January 2024, was refused by notice dated 4 April 2024.
  - 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 material change of use of land to camp site.
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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 regards 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 22 January 2014) 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 a 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 claims that the appeal site has been in use as a camp site for over 12 years. The submitted evidence to establish this includes online reviews, photographs, annotated site plans, aerial photographs, and written statements

from the appellant, local residents, a website designer, an accountant's company, and the Councils Environmental Health Team. The evidence is examined in the following paragraphs.

7. Twelve online reviews have been submitted, amounting to one review from each year between the years 2011 and 2023, except for 2013. The reviews all detail visitor accommodation at a camp site with most describing shower facilities. Whilst the reviews describe characteristics of a camp site which are similar to the appeal site, there are no addresses or site plans provided with any of these reviews and therefore I cannot be certain that all these reviews relate specifically to the appeal site. Single reviews from each year between 2011 and 2023 does not provide convincing evidence that the site has been used as a camp site continuously for 10 years. Notably, there are no reviews for the year of 2013 or any after 2023, which reinforces the uncertainty that there has been a camp site use at the site for a continuous uninterrupted period of 10 years.
8. An email from a Christopher Robinson details that his house, that he has lived at for 13 years, overlooks the appeal site. He further states that the site has always been open and used for camping by tents or vans every year in the 13 years he has lived there. This email does not state how many campers visited the site every year and I am therefore not convinced that the use as a camping site has taken place at the appeal site uninterrupted for a continuous 10-year period.
9. Correspondence from a Jack Barber, who provides website design and hosting services for the appellant, explains he has provided his service since 2008 and throughout the years has visited the site and taking various photographs and contends that the site has been operating as a camp site throughout this time. There are no details of the frequency of Mr Barber's visits to the appeal site or any description as to what he specifically witnessed at the site. This correspondence is not compelling evidence that the site has been used as a campsite continuous for 10-years.
10. A letter from Wasley Chapman LLP claims that they have been the appellant's accountants for over 15 years and have reported income from the camping business that they operate as part of their tax returns. Insufficient evidence has been presented in terms of the appellant's tax returns, income or financial records with regards to a camp site at the appeal site. This letter from the accountants company, as submitted, does not present clear evidence that a campsite use at the appeal site has been undertaken for a 10-year continuous period.
11. Correspondence dated 28 August 2009, from a Councils Environmental Health Officer has been presented. This letter does not support the appellant's claims that the site is in a camp site use as it details that there is no record of the site holding a valid caravan site licence.
12. Various site plans, some annotated, have been submitted along with aerial photographs and some photographs showing the shower block and an animal on a vehicle. The appellant also details that permission has been received for various structures on the site as well as a separate vehicular access, and that the site has been maintained. These matters however, do not provide substantial evidence that the appeal site has been in use as a camp site for a continuous period of 10-years.
13. Accordingly, having regard to all the evidence before me, I find as a matter of fact and degree and on the balance of probability, that the appeal site has not been in

a continuous and uninterrupted use as a camp site for more than 10 years before the date of the application.

### **Conclusion**

14. I conclude on the balance of probability, that the Council's refusal to grant a LDC in respect of the use of the site as a camp site 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