



Appeal Decision

Site visit made on 26 February 2026

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 9th March 2026

Appeal Ref: APP/V2635/X/24/3355191

Land at 74 South Beach Road, Heacham, King's Lynn PE31 7BB

- The appeal is made by Nigel Marsh under section 195 of the Town and Country Planning Act 1990 against a refusal by King's Lynn & West Norfolk Borough Council to grant a lawful development certificate.
 - The application Ref: 24/00685/LDE, dated 11 April 2024, was refused by notice dated 4 July 2024.
 - The application was made under section 191.
 - The development for which the certificate is sought is "Use of site as Recreational Camping and Caravan club".
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawfulness relating to the existing use described in the application, which I consider was lawful at the time of the application.

Reasons for the decision

2. The Council refused the application for the following reason: -

The LPA is satisfied that the land in question benefits from Permitted Development Rights granted under Classes A and C of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO), as long as it is occupied and supervised by an exempted organisation, by virtue of Exemption Certificate no. 642 issued by Natural England on the 30th September 2020. Permission is granted until 30th September 2025 when the Exemption Certificate expires.

However, under Article 3 of the GPDO 2015 (as amended), a permission is subject to the provisions of regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (Article 3(1)) as well as any exception, limitation or condition specified within Schedule 2 of the GPDO (Article 3(2)). Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 require an application to be made if the development is likely to have a significant impact on European protected sites.

It is the opinion of the appropriate nature conservation body that the development will have a likely significant impact.

The LPA can confirm that no application has been made under The Conservation of Habitats and Species Regulations 2017.

The LPA can confirm that the site is currently in operation.

The LPA therefore concludes that the development is unlawful, and the Council may issue an enforcement notice. This being the case, the development does not comply with s.191(2)(a) of the TCPA 1990 and does not benefit from the provisions of s.191(3). Accordingly, a certificate must be refused: s.191(4).

3. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The application is not a proposal for new development. Planning policy considerations are not relevant. The assessment is based solely on the lawfulness of the use of the site as a recreational Camping and Caravan Club site at the time when the application was made. The certificate should be granted if this use was lawful when it began and the lawful use has continued uninterrupted up to the time of the application.
4. I have considered the information supplied by the appellant about the historic use of the site and the assertion that there was no material change of use requiring planning permission when the use of the site as a recreational Camping and Caravan Club site began. The information supplied is limited to indicating that camping first took place on the site in the 1930s, that camping and caravanning was taking place there in 1953 and that camping took place there between 2016 and 2018. This information is insufficient to demonstrate that a material change of use did not occur when the site began to be used as a recreational Camping and Caravan Club site in 2018.
5. The Council's decision acknowledges that the site benefits from permitted development rights, subject to conservation regulations. At the time when the use began in 2018, the relevant provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Conservation of Habitats and Species Regulations 2017 were as follows: -

Article 3: (1) Subject to the provisions of this Order and regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (general development orders), planning permission is hereby granted for the classes of development described as permitted development in Schedule 2. (2) Any permission granted by paragraph (1) is subject to any relevant exception, limitation or condition specified in Schedule 2.

Schedule 2, Part 5, Class A - the use of land as a caravan site in the circumstances referred to in paragraph A.2. Condition - development is permitted subject to the condition that the use is discontinued when the circumstances specified in paragraph A.2 cease to exist, and all caravans on the site are removed as soon as reasonably practicable. Interpretation - the circumstances mentioned in Class A are those specified in paragraphs 2 to 10 of Schedule 1 to the Caravan Sites and Control of Development Act 1960 (cases where a caravan site licence is not required).

Schedule 2, Part 5, Class C - the use of land by members of a recreational organisation for the purposes of recreation or instruction, and the erection or placing of tents on the land for the purposes of the use. Interpretation - for the

purposes of Class C, "recreational organisation" means an organisation holding a certificate of exemption under section 269 of the Public Health Act 1936 (power of local authority to control use of moveable dwellings).

Regulation 75 makes it a condition of the permission granted by Article 3 and Part 5 that development which is likely to have a significant effect on a protected European site must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 (approval of local planning authority).

6. The use of the land which began in 2018 was a use as a caravan site and recreational campsite within Part 5. The use had the appropriate certificate issued under paragraph 5 of Schedule 1 to the Caravan Sites and Control of Development Act 1960 and section 269 of the Public Health Act 1936, which was granted on an annual renewal basis in 2018. A further certificate was issued in 2020 under section 269 for a period expiring in 2025 and this certificate was in force at the time of the application for the certificate of lawful use. The issuing authority for the 2020 certificate treated it as also operating for the purpose of Schedule 1 to the 1960 Act. There is no indication that the use which began in 2018 was not carried on in accordance with these certificates continuously without interruption between 2018 and the date of the application for the certificate of lawful use. The permitted development rights were not affected by the variation in the terms of the exemption certificate which took place in 2020.
7. The provisions of regulation 75 applied when the use began in 2018. They do not apply when a certificate of lawful existing use is applied for that does not contain any proposals for any development to be begun. Moreover, the provisions of regulation 75 will not have been engaged at all in 2018 if the proposed use was at that time not likely to have a significant effect on a protected European site.
8. The appellant commissioned an ecological report in 2018 which concluded that the site had a low ecological value and that there was a minimal risk of impact on protected sites. The appellant states that the Council assessed the proposed use in 2018 and following consultations with the certifying body and himself it was confirmed in writing that the Council had no objection. This has not been disputed in these appeal proceedings. It is reasonable to conclude in the circumstances that it was not considered at the time when the use began that the use was likely to have a significant effect on a protected European site: regulation 75 was therefore not engaged.
9. For the above reasons, I consider that the Council's refusal of the application is not well-founded. The appeal has therefore been allowed and the certificate has been granted.

D.A.Hainsworth

INSPECTOR



Certificate of Lawful Use

APPEAL REFERENCE APP/V2635/X/24/3355191
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 11 April 2024 the existing use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and identified 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:

The use was permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, Article 3(1) and Schedule 2, Part 5, Classes A and C.

D.A.Hainsworth

INSPECTOR

Dated: 9th March 2026

First Schedule

The use of the land as a certificated recreational Camping and Caravan Club site within Part 5 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, subject to the condition in A.1 of Part 5 and the exception in C.1 of Part 5.

Second Schedule

Land at 74 South Beach Road, Heacham, King's Lynn PE31 7BB

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 use 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 use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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 Certificate of Lawful Use

Land at 74 South Beach Road, Heacham, King's Lynn PE31 7BB

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This is the plan attached to the Certificate of Lawful Use
dated: 9th March 2026

D.A.Hainsworth

Inspector

