



Appeal Decision

Site visit made on 12 March 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 MARCH 2026

Appeal Ref: APP/U2750/X/24/3350869

Greenacres Garth, Green Lane, Cliffe, Selby, North Yorkshire, YO8 6PG

- 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 use or development (LDC).
 - The appeal is made by Mr Ralph Woodall & Mrs Avril Woodall against the decision of North Yorkshire Council.
 - The application ref ZG2024/0633/CPE, dated 17 June 2024, was refused by notice dated 16 August 2024.
 - The application was made under section 191(1)(a) and (c) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is a single use class C3 dwellinghouse, gardens and access with no restrictive conditions.
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Decision

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

Preliminary Matters

2. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that planning merits are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. Planning permission was approved on 29 October 1991¹ (the 1991 Permission) for the erection of a detached dwellinghouse on land falling within the red edged location plan which accompanies the LDC application. The Council does not dispute that such a dwellinghouse was built in 1992 and that it has been continuously used as such from this time.
4. The 1991 Permission was subject to seven conditions including No. 04 preventing direct access to the A63 Trunk Road, No. 05 requiring access to the site being from the western end of the site frontage to Green Lane, and No. 07 restricting occupation of the dwelling to a person solely or mainly employed or last employed in the locality in agriculture as defined in section 336 of the Act.
5. I have a copy of the above decision notice as well as the approved plans relating to the approved detached dwellinghouse. The appellants seek legal confirmation that because the proposed dwellinghouse has not been built in accordance with the approved plans, and, owing to the passage of time, that its position and use as shown on the red edged location plan attached to the LDC application is lawful and

¹ Planning application reference CO/1991/0411

that the conditions imposed in respect of the 1991 Permission have no effect. The appellants also seek confirmation that the land falling within the red edged location plan accompanying the LDC application is lawfully residential curtilage (including use as associated garden land), and that the access fronting the A63 is lawful in association with use of the appeal land as a single C3 dwellinghouse.

Main Issue

6. In the context of the above, the main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether the evidence demonstrates, on the balance of probability, that on the date of the LDC application, and, owing to the passage of time, the dwellinghouse positioned and constructed on the appeal land deviated sufficiently from the 1991 Permission to the extent that it and its associated land was lawfully a C3 dwellinghouse (including a lawful access from the A63 Trunk Road and a C3 dwellinghouse curtilage) and unencumbered from the restrictions imposed by the conditions imposed in the 1991 Permission.

Reasons

7. I have considered the plans submitted as part of the 1991 Permission as well as the position of the dwellinghouse which is now located on the appeal land. While the Council is critical of the appellant not submitting overlaying scaled drawings, and following a detailed survey being carried out on the site, I have nonetheless been able to appreciate the position of the dwellinghouse as approved, and relative to the position of Green Lane and the A63, from the point of view of considering the appellants' Google images and the 1991 permission plans. Moreover, I was able to see the position of the proposed dwellinghouse as part of my site visit and to compare it to the 1991 Permission plans.
8. In my judgement, there is a material difference between the position of the dwellinghouse approved as part of the 1991 Permission and that which can now be seen on the appeal land. It is not the case that there is a very minor discrepancy between what was approved and what was built. In my judgement, the differences can quite easily be ascertained from the naked eye and by comparing the 1991 permission plans and what can be seen on the ground.
9. Indeed, and, in relative terms, there is much more open space to the frontage with Green Lane, and the property is positioned much further into the plot than what was approved. The dwellinghouse is also much less in a west/east line with the neighbouring property. Contrary to the view of the Council, I consider that a person approaching the dwellinghouse would think that it is materially in the wrong place when viewing it against the 1991 approved plans. That was certainly my position when I carried out my site visit.
10. The evidence indicates that the property has been extended over the years. The Council has commented that planning permission was approved for a garage on the site² and that a conservatory was erected utilising permitted development rights. I do not agree with the Council that because it did not notice that the dwellinghouse had been built in the wrong position when it approved the subsequent garage, it means that the deviation from the approved plans is not material or significant.

² Planning application reference 2010/0432/HPA

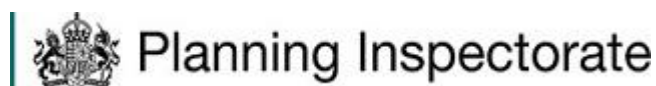
11. In my judgement, it is likely that checks were simply not carried out by the case officer at this time. There is no evidence to suggest that there were any enforcement complaints about unauthorised development at this time. It is therefore likely that the planning officer at the time simply focused on the acceptability of erecting the garage in policy and visual terms, and not on examining approved drawings on a different and historic planning application file.
12. The evidence includes a Google earth image from the appellant which is claimed to be 5 July 2007. This has not been disputed by the Council. It shows the dwellinghouse which is the subject of this appeal. It also shows the vehicular access fronting the A63 Trunk Road and what appears to be mown grass with a trampoline. This land appears to correspond with the red edged location plan accompanying the LDC application.
13. The Council does not dispute that Council tax has been continuously paid for more than ten years and that the appeal dwellinghouse has been in situ for more than ten years. From a passage of time point of view, the evidence before me is sufficiently precise and unambiguous for me to conclude that the dwellinghouse on the appeal land is immune from enforcement action both from an operational development and a use of land point of view.
14. Moreover, the evidence is sufficiently precise and unambiguous for me to conclude that the land falling within the red edge on the location plan accompanying the LDC application does comprise the associated residential curtilage, and that it can be used for residential garden purposes. Moreover, given the passage of time, and, on the balance of probability, I find that the vehicular access fronting the A63 can lawfully be used in association with the C3 dwellinghouse which is the subject of this appeal.
15. In this case, I am satisfied, on the evidence before me, and, on the balance of probability, that the dwellinghouse which has been erected on the land is materially different to that approved as part of the 1991 Permission. Moreover, and, owing to the passage of time, the dwellinghouse, access and associated residential garden land falling within the red edge on the location plan accompanying the LDC application are lawful. Hence, I find that the development is immune from enforcement action in accordance with section 171(B) of the Act. Given my findings, I therefore conclude that the conditions imposed in respect of planning permission CO/1991/0411 are no longer of any legal effect.

Conclusion

16. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for a single use class C3 dwellinghouse, gardens and access with no restrictive conditions is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

D Hartley

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 17 June 2024 the use 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 dwellinghouse that has been erected on the land has been constructed in a materially different place to that approved as part of planning permission CO/1991/0411. Moreover, and, owing to the passage of time, the dwellinghouse, access and associated residential garden land are lawful. Hence, the development is immune from enforcement action in accordance with section 171(B) of the Act. To this extent, the conditions imposed in respect of planning permission CO/1991/0411 are no longer of any effect.

Signed

D Hartley

Inspector

Date: **20 MARCH 2026**

Reference: APP/U2750/X/24/3350869

First Schedule

Single use class C3 dwellinghouse, gardens and access with no restrictive conditions.

Second Schedule

Land at Greenacres Garth, Green Lane, Cliffe, Selby, North Yorkshire, YO8 6PG

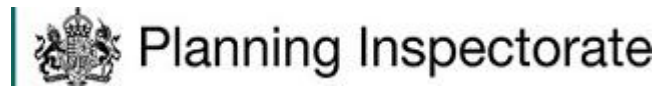
IMPORTANT NOTES – SEE OVER

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

This certificate applies only to the extent of the use /operations 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: **20 MARCH 2026**

by **D Hartley BA (Hons) MTP MBA MRPTI**

Land at: Greenacres Garth, Green Lane, Cliffe, Selby, North Yorkshire, YO8 6PG

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Scale: Not to Scale

