



Appeal Decision

by **Grahame J Kean B.A. (Hons) Solicitor, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2026

Appeal Ref: APP/M4510/X/26/3377690

10 Aintree Street, North Gosforth, Newcastle Upon Tyne NE13 6PA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Nicola Hudson against Newcastle Upon Tyne City Council.
 - The application ref 2025/0983/01/LDC is dated 30 June 2025.
 - The application was made under section 191(1)(b) 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 timber boundary fence exceeding 1 metre in height erected on the front boundary of the property (adjacent to the highway).
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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 operation which is found to be lawful.

Reasons

2. I have read the appellant's case but do not need to refer to it in any detail. There were no representations received on the appeal from interested persons.
3. The Council, in its appeal statement, candidly accepts that *"evidence has been provided to demonstrate that the fence has been in situ and substantially complete for more than 4 years."*
4. After detailing the history of the matter, I am asked to note that *"a certificate of lawfulness under section 191 could be granted in this case for the development set out at 10 Aintree Gardens."*
5. I see no reason to disagree.
6. Somewhat surprisingly, the Council states that *"if it had had the opportunity to determine the s191 application it would have been minded to grant the application."* This may be a misplaced observation because whilst an appeal against a failure to determine an LDC application is on foot, I see no reason why the Council is deprived of its jurisdiction to determine the original application.
7. In light of the Council's observations it could and should have granted the certificate in the terms sought before allowing the matter to progress to the preparation by parties of the appeal documentation. It had every opportunity to respond timeously and substantively to the original application validated on 31 July 2025 with officers applying their minds proactively to the available evidence before the appellant lodged their appeal.

Conclusion

8. For the reasons given above I conclude, on the evidence now available that, had the Council refused to grant a certificate of lawful use or development in respect of the timber boundary fence that refusal would not have been well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

Grahame J Kean

INSPECTOR

Plan

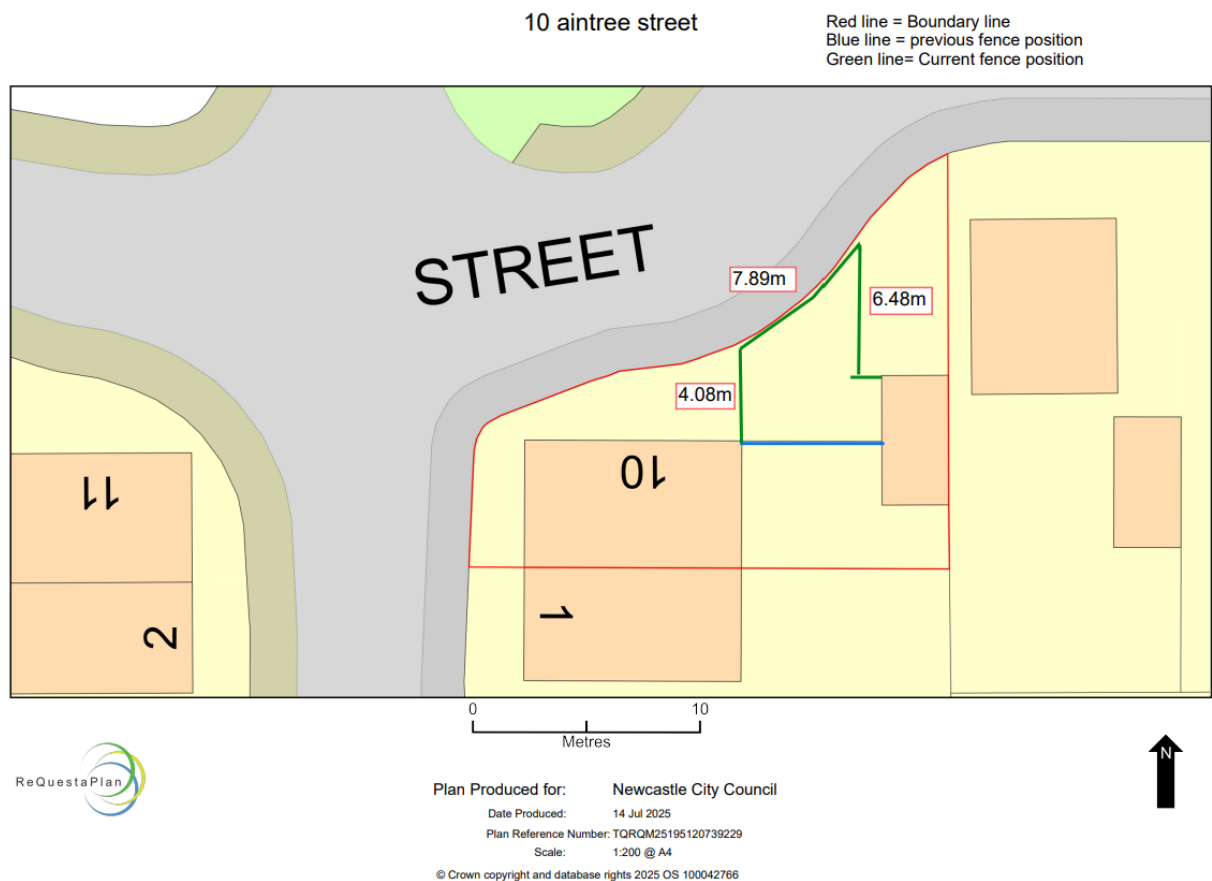
This is the plan referred to in the Lawful Development Certificate dated: 23 April 2026

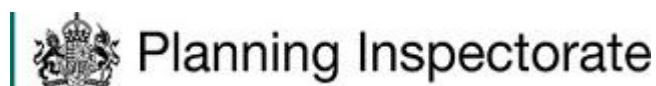
by Grahame J Kean

Land at: 10 Aintree Street, NEWCASTLE UPON TYNE, NE13 6PA

Reference: APP/M4510/X/26/3377690

Scale: Not to Scale





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 31 July 2025 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and marked in green on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The fence had been in situ and substantially complete for more than 4 years before the application was made on 30 June 2025 and validated on 31 July 2025.

Signed

Grahame J Kean

Inspector

Date: 23 April 2026

Reference: APP/M4510/X/26/3377690

First Schedule

Timber boundary fence exceeding 1 metre in height erected on the front boundary of the property (adjacent to the highway).

Second Schedule

Land at 10 Aintree Street, NEWCASTLE UPON TYNE, NE13 6PA

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.