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## Appeal Decision

Site visit made on 6 May 2026

**by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 30 June 2026**

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**Appeal Ref: APP/N3020/X/24/3356686**

**Mansfield Road, Arnold, Nottingham, Nottinghamshire NG5 8PH**

- 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 Stuart Mills (MEV) against the decision of Gedling Borough Council.
  - The application ref 2024/0620, dated 6 September 2024, was refused by a notice dated 2 December 2024.
  - 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 described as: Erection and use of a storage area for wedding equipment such as Tipis when not in use and as a bar area and seating area or wedding ceremony area.
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**This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 21 May 2026**

### Decision

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

### Main Issue

2. Section 191(4) of the Town and Country Planning Act, 1990 (as amended) (the Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matters described in the application, or that description as modified by the local planning authority, or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application. The planning merits of the development are not relevant in this appeal, and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded.
3. It is established case law that the appellant's evidence does not need to be corroborated by 'independent' evidence for it to be accepted. In the event that there is no evidence to contradict the appellant's version of events, an LDC should be issued. However, the appellant's own evidence must be sufficiently precise and unambiguous to justify a grant of an LDC, on the balance of probability.

### Reasons

4. Having regard to the description of the development on the appellant's application form and his supporting evidence, I understand that he is seeking an LDC for a structure erected on the appeal site which provides an area of shelter for items

stored on the land (the store). In the section titled “Grounds for application for a LDC” on the original application form, the appellant has ticked that is applying for building works substantially completed more than four years before the date of this application. The LDC is thus for operational development. However, I am mindful that the application description also describes the storage use and that the Council considered the application on the basis of that use. I shall therefore deal with the use of the land as a storage area for wedding equipment such as Tipis, when not in use, as a separate matter.

### *Erection of a storage shelter (the store)*

5. In relation to a breach of planning control consisting of operational development, it is necessary for the appellant to demonstrate, on the balance of probability, that the building works were substantially complete on or before the 6 September 2020.
6. The appellant states that the store was originally built in April 2020 and completed in early August 2020. He states that the store, which is a substantial timber frame covered by a heavy-duty canvas tarpaulin, was initially constructed to store timber, but following the outbreak of the COVID19 pandemic has also been used as a shelter in connection with the use of the land as a wedding venue. In support of his application an extract from “Nottinghamshire Live” which includes a photograph of the store and is dated 5 August 2020 has been provided. A copy of a delivery note for the purchase of the canvas tarpaulin, dated 21 July 2020, has also been provided.
7. The Council do not dispute that the store was substantially complete by the end of August 2020 and thus before the relevant date. However, it is their view that the store is facilitating the use of land for the storage of items associated with the use of the Land as a wedding venue, and that land use is unlawful. Thus, the Council contend that having regard to the *Murfitt Principle*<sup>1</sup>, structures that facilitate the material change of use of the land can be required to be removed from the land, even when those structures themselves are immune from enforcement action. The Council also draws attention to the valid enforcement notice which relates to the appeal site and prevents the use of the appeal site as a wedding venue<sup>2</sup>.
8. The enforcement notice, as corrected, alleged the material change of use of the land to a mixed use as forestry and a wedding venue with associated erection of 2no.joined tipi tents, erection of a stage with canopy and siting of a WC trailer and trailer mounted cabin. The notice came into effect on 30 June 2023 and required, within three months, the use of the land to cease as a wedding venue, and the removal of the 2no.joined tipi tents, the stage with canopy and the trailer mounted cabin from the land. From the evidence available, I understand that the store the subject of this LDC appeal was on the land and in use as a log store when the enforcement notice was issued. Moreover, the notice does not require the store to be removed from the land and there is no reference in the enforcement notice to the store facilitating the use of the land as a wedding venue. Consequently, the store, which was substantially complete before the relevant date, is now immune from enforcement action.
9. I understand that the store suffered damage from a fallen tree in May 2022. However, from the evidence before me, including photographs provided by both

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<sup>1</sup> *Murfitt v SSE & East Cambridgeshire CC* [1980] JPL 585

<sup>2</sup> APP/N3020/C/22/3306064

parties, and observations on my site visit, the works that have been undertaken to repair the store, were just that, works of repair. As a matter of fact and degree, the repaired store is not a new building.

*Use of the land for the storage of wedding equipment such as Tipis, when not in use.*

10. The lawful use of the land is for forestry. Thus, storage of logs/timber on the land would be ancillary to that forestry use and lawful. Section 191 (2) of the Act states that for the purposes of the Act, uses and operations are lawful at any time if (a) 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); **and (b) they do not constitute a contravention of any of the requirements of an enforcement notice then in force**<sup>3</sup>. Consequently, having regard to the terms of the enforcement notice, which remains in force, the use of the land, including that beneath the store, for the storage of wedding equipment such as Tipis when not in use, would be in breach of the requirements of the notice and unlawful.

### **Conclusion**

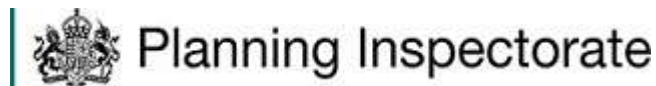
11. For the reasons given above, I conclude on the evidence available, that the Council's reasons for refusal to grant a LDC described as the erection and use of a storage area for wedding equipment such as Tipis when not in use and as a bar area and seating area or wedding ceremony area was well-founded. However, I have concluded that the erection of the store alone, which is operational development, is lawful and to that extent the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the Act, as amended.

*Elizabeth Pleasant*

INSPECTOR

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<sup>3</sup> Bold used for my emphasis.



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## 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

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**IT IS HEREBY CERTIFIED** that on 6 September 2024 the operations described and shown on the photograph in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and labelled 'store' 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 store was constructed and substantially complete on or before the 6 September 2020.

Signed

*Elizabeth Pleasant*

INSPECTOR

Date: **[ ]**

Reference: APP/N3020/X/24/3356686

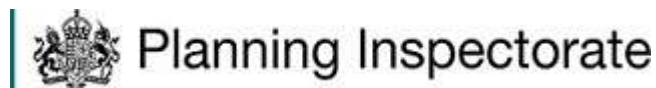
***First Schedule***



Store:

***Second Schedule***

Land at Mansfield Road, Nottingham, NG5 8PH



## Plan

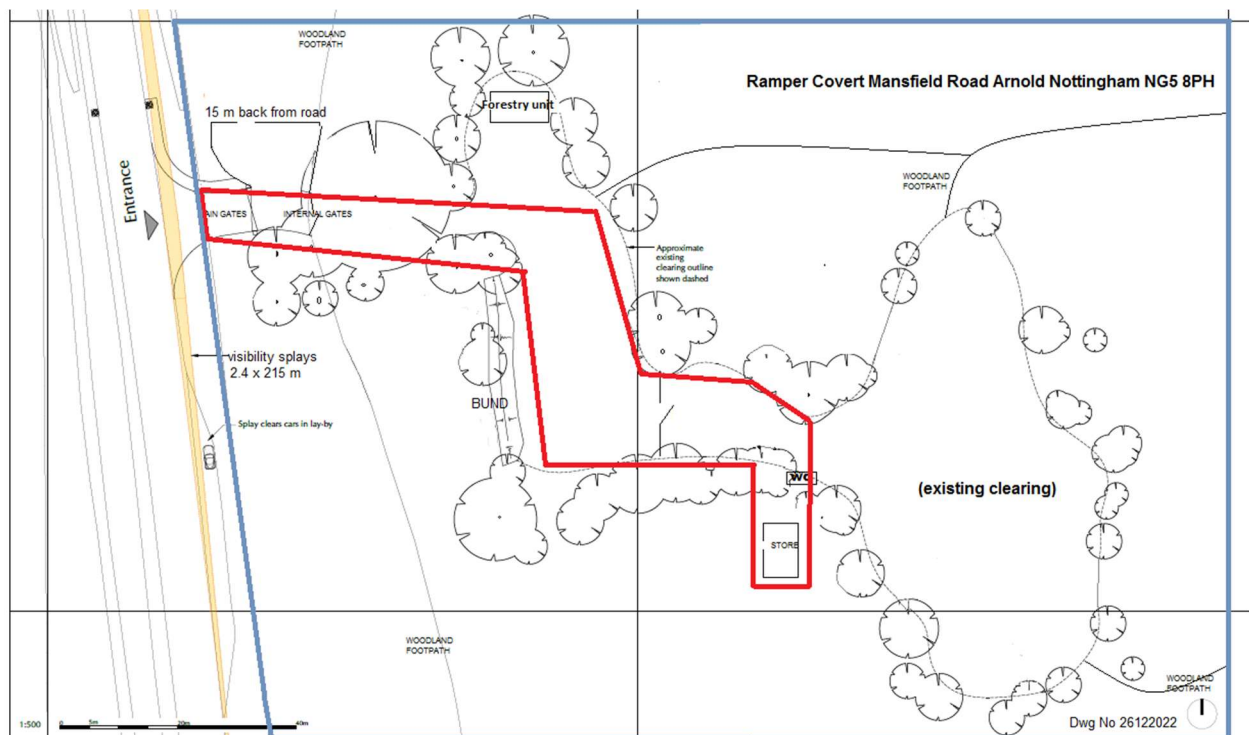
This is the plan referred to in the Lawful Development Certificate dated: [ ]

by Elizabeth Pleasant

Land at: Mansfield Road, Nottingham, NG5 8PH

Reference: APP/N3020/X/24/3356686

Scale: Not to Scale



## 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.