



Appeal Decision

Site visit made on 14 May 2026

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2026

Appeal Ref: APP/G1630/X/25/3362936

Homestead Farm, Church End, Twyning, Tewkesbury, Gloucestershire GL20 6DA

- 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 Sir Richard Lynch-Blosse against the decision of Tewkesbury Borough Council.
 - The application ref 24/00291/CLE, dated 7 April 2024, was refused by notice dated 14 January 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is described as "The Land to the North and West of the barn has been in residential use for at least the last 15yrs and no agricultural activity has been carried out so we would like a certificate of lawful use in order to change it to residential".
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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 and Main Issue

2. An application under s191(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act) seeks to establish whether, at the time of the application, any existing use of buildings or other land is lawful.
3. S191(2)(a) of the 1990 Act explains that uses are lawful if no enforcement action may be taken in respect of them because they did not involve development or require planning permission or because the time for enforcement action has expired.
4. The appeal relates to a parcel of land, previously used for agricultural purposes, situated to the north and west of the residential property known as Homestead Farm. Essentially, the application sought to certify the lawfulness of the use of that land as part of the residential garden of Homestead Farm.
5. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. From the evidence before me, that turns on whether a material change of use of the former agricultural land to residential garden occurred ten or more years before the date of the application, and then continued without material interruption for a period of at least ten years thereafter, so as to meet the immunity period from enforcement action under s171B(3) of the 1990 Act. The material date is therefore 7 April 2014.
6. The burden of proof lies with the appellant to make his case on the balance of probabilities. If there is no evidence to contradict or make the appellant's version of

events less than probable and his evidence alone is sufficiently precise and unambiguous, that is enough. Evidence should not be rejected simply because it is uncorroborated.

Reasons

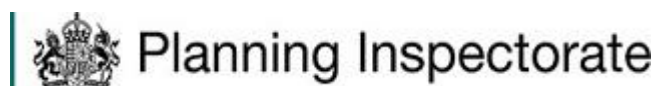
7. In support of the appeal, the appellant has provided additional and updated evidence with a view to addressing the Council's reason for refusing the LDC application.
8. In his signed statement the appellant explains that the land identified on a Land Registry Title plan has been used as residential land for the last 16 years. For clarification, 'residential land' is confirmed as meaning use as residential garden. The same is confirmed in similarly worded signed statements from the occupants of the neighbouring properties on either side.
9. The Council confirms that those submissions satisfy its precision concerns over the land in question, the duration of continuous use and what is meant by residential land.
10. The aerial photographs show that the land was cleared of vegetation and a pond infilled between 2007 and 2013. Thereafter, the land appears to be predominantly mown grass with some indistinguishable structures along the eastern boundary. Although those images on their own are insufficient to demonstrate lawfulness, they do not show any feature or activity which would cast doubt on the appellant's version of events - that the land was used as residential garden.
11. Having addressed its above concerns, the Council is now satisfied that the existing use of the land as residential garden in connection with Homestead Farm, is lawful, on the balance of probabilities. Although the appellant and Council refer to the above referenced submissions as sworn statements and/or affidavits, for the avoidance of doubt, they are neither. They are not witnessed by a solicitor or equivalent so are unsworn, signed statements to which no sanctions apply. Consequently, they carry less weight than an affidavit or sworn statement.
12. Nevertheless, in the absence of any contradictory evidence, I find that which is before me to be sufficiently precise and unambiguous to demonstrate that the land identified has been in continuous use as residential garden for more than ten years prior to the date of the LDC application, on the balance of probabilities, and is thus immune from enforcement action through the passage of time.
13. Under s191(4) of the 1990 Act, any LDC granted must describe the existing use or development found to be lawful. That may not be exactly what was written on the application form, and so s191(5) enables a local planning authority to modify the description. An Inspector may exercise that power on appeal and is indeed obliged to issue an LDC for any existing use or development that is shown to be lawful on the facts and evidence.
14. In this case, a more precise and succinct description is the material change of use of agricultural land to residential garden associated with the dwellinghouse known as Homestead Farm. That description is similar to that set out in the appellant's statement and the Council's decision notice, and removes the superfluous elements contained in the application form description.

Conclusion

15. For the reasons given above, I conclude that the Council's refusal to grant an LDC is not well founded. The appeal should succeed, and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Richard S Jones

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 7 April 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black 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 evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, that the use of the land has been in continuous use as residential garden for a period of ten or more years prior to the date of the LDC application, so the time for taking enforcement action has expired by virtue of s171B(3) of the Town and Country Planning Act 1990 as amended.

Richard S Jones

INSPECTOR

Date: **03 July 2026**

Reference: APP/G1630/X/25/3362936

First Schedule

The material change of use of agricultural land to residential garden associated with the dwellinghouse known as Homestead Farm

Second Schedule

Land at Homestead Farm, Church End, Twyning, Tewkesbury, Gloucestershire
GL20 6DA

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 described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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.

Scale: Not to Scale

