Planning Inspectorate

Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2026

Appeal Ref: APP/E2001/X/25/3360762

Cliff House Farm, Garthends Lane, Cowden, Hull HU11 4UN

- 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 John Dawson against the decision of East Riding of Yorkshire Council.
- The application ref 24/02770/CLE, dated 30 September 2024, was refused by notice dated 14 November 2024.
- The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 (as amended).
- The failure to comply with any condition or limitation for which an LDC is sought relates to condition 4 of planning permission ref. 06/03112/PLF.

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the matter constituting a failure to comply with a condition or limitation which is found to be lawful.

Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. Cliff House Farm is a bungalow in a large narrow rectangular plot with an east frontage to the North Sea. The dwelling, which is in a remote location in the countryside, has been the home of the Appellant and his wife, Mrs Jennifer Dawson, since 2007. The dwelling was built pursuant to the grant of planning permission 06/03112/PLF on 29 June 2006 for 'erection of agricultural workers dwelling'. Condition 4 of the planning permission is "The occupation of the dwelling shall be limited to a person solely or mainly working or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants".

4. The reason given for condition 4, after reference to planning policy applicable at that time, is "…planning permission is not normally granted for residential development in the open countryside unless there is a proven need in the interests of agriculture or forestry. It is considered that such a need exists in this case. It is necessary to restrict the occupation of the dwelling to ensure that it remains available to meet the needs of agriculture or forestry in the area". The Applicant for planning permission 06/03112/PLF is the Appellant in this appeal, Mr J Dawson.

5. The Appellant maintains that he and his wife have lived at Cliff House Farm in breach of condition 4 for a period in excess of ten years prior to the date of the application and that their occupation of the property in breach of the condition is thus

now lawful. The onus of proof is on the Appellant and if the Local Planning Authority has no evidence itself, nor from any others, to contradict or make the Appellant's version of events less than probable, there shall be no good reason to refuse the appeal, provided the Appellant's evidence is sufficiently precise and unambiguous.

6. The Council's case is confused, principally, as a result of their interpretation of 'working' in condition 4, which belies the reason for the condition. They claim that "…'working' does not necessarily mean that a person/s would need to earn a living or make money from the activity". But to justify the grant of planning permission for a rural dwelling there must be evidence that it would be for a worker employed to ensure "…the effective operation of an agricultural….enterprise", as indicated in the Planning Practice Guidance. It follows, therefore, that the worker occupying the dwelling must gain income from working for or carrying on the enterprise.

7. The Council accepts that "…Mr Dawson retired in 2007 with no other evidence of employment afterwards". There is evidence that he and Mrs Dawson carried out agricultural activities since that year but there is no evidence that these activities were associated with the operation of an agricultural enterprise. All the evidence indicates that the agricultural activities were hobby based and not for financial gain or associated with an enterprise. In this regard, documentation relating to livestock movements is a legal requirement whether it is related to hobby or business activities.

8. There is no evidence that either Mr or Mrs Dawson have worked in agriculture since they took up occupation of Cliff House Farm. Their evidence is unambiguous and sufficiently precise to justify a conclusion that condition 4 of planning permission 06/03112/PLF has not been complied with since the permission was granted.

9. For the reasons given above, and on all the evidence now available, the Council's refusal to grant an LDC for the failure to comply with condition 4 of planning permission ref. 06/03112/PLF at Cliff House Farm, Garthends Lane, Cowden, Hull was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector

Planning Inspectorate

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 30 September 2024 the matter described in the First Schedule hereto, constituting a failure to comply with a condition or limitation subject to which planning permission has been granted, in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(3) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The dwelling has been occupied in breach of the condition for more than ten years.

Signed

John Braithwaite

Inspector

Date: 05 August 2026

Reference: APP/E2001/X/25/3360762

First Schedule

Condition 4 of planning permission ref. 06/03112/PLF

Second Schedule

Land at Cliff House Farm, Garthends Lane, Hull HU11 4UN

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 matter, constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, 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 or 187A of the 1990 Act, on that date.

This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter 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.

Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated: 05 August 2026

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

Land at: Cliff House Farm, Garthends Lane, Hull HU11 4UN

Reference: APP/E2001/X/25/3360762

Scale: Not to Scale

