
Appeal Decision

Site visit made on 25 August 2026

by **L Perkins BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 September 2026

Appeal Ref: APP/P1425/X/24/3355814

Hazel View, Jackies Lane, Newick BN8 4FB

- 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 Willett against the decision of Lewes District Council.
 - The application ref LW/22/0359, dated 6 May 2022, was refused by notice dated 30 May 2024.
 - 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:
"Use of land for landscaping business and recreational purposes."
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr John Willett against Lewes District Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether the Council's decision to refuse the certificate was well-founded.

Reasons

4. Under section 191(1) of the 1990 Act, if any person wishes to ascertain whether any existing use of buildings or other land is lawful, they may make an application for the purpose to the local planning authority specifying the land and describing the use.
5. Section 191(2) of the same Act states that for the purposes of this Act uses 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 any enforcement notice then in force.
6. Section 191(4) provides that if, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use 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.

7. Planning Practice Guidance¹ states that the applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, it states that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
8. Section 171B of the 1990 Act provides time limits within which enforcement action may be taken. For the use described by the appellant in this case, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach (notwithstanding that an erroneous period of 4 years is stated on the Council's decision notice).
9. So based on the evidence provided, I must consider whether the appeal site changed to the use described in the LDC application and continued to be so used for 10 years after the date of the change and before the date of the application, such that the Council could have taken enforcement action at any time during that 10 year period.
10. The appellant's declaration, signed on 6 May 2022, states that his father purchased the land on 3 June 2004 and that the appellant has used the site for his landscaping business since then. This date is consistent with the LDC application form, which declares that the use began 3 June 2004. A declaration of the same date has also been provided by the appellant's father, in near identical terms.
11. However, an enforcement notice, served on the appellant, concerning the same land, dated 4 November 2019, which took effect on 9 December 2019, identifies the use of the land as for "the storage of a caravan, one timber structure, two storage containers, vehicles, horse trailer, machinery, timber and any other materials..." The enforcement notice's allegation of storage is inconsistent with appellant's description of the use in the LDC application.
12. Crucially, this enforcement notice was not appealed. Therefore, in the absence of any ground (b) appeal against that enforcement notice having been made at the relevant time (ie that the matters stated in the enforcement notice have not occurred), the allegation in the enforcement notice may not now be questioned, due to section 285(1) of the 1990 Act. Thus, the use described by the appellant in the LDC application is contradicted by the enforcement notice. It makes no difference whether the LDC application relates to more than 10 years prior to the service of the enforcement notice because of the enforcement notice's contradictory effect.
13. A letter by Simon Lodge, dated 30 March 2022, describes a "Mr J Willet" [sic] as operating "a general storage yard" for at least 15 years. This is not the same name or use stated in the LDC application. It instead reflects the storage use attacked by the active enforcement notice noted above, meaning section 191(2)(b) of the 1990 Act, noted above, is engaged, for the use described by Simon Lodge.
14. A letter by Diana Palczewski, dated 4 April 2022, describes an unspecified field which is the property of "John Millett" [sic] used as a base for "doing building, hiring or renting of machinery and other works." Mr Millett is also described in this letter

¹ Lawful development certificates – Paragraph 006 Reference ID: 17c-006-20140306

as “restoring some of the agricultural function of the land”. Either the above two descriptions of the use contradict the description of the use in the LDC application, or this letter is insufficiently precise and unambiguous in respect of the land in question. This is because this letter does not actually describe the relevant land and John Millett is not the name of the appellant.

15. An earlier letter by the same author, dated 30 March 2022, refers to land at “Hazel Wood” and this is not the same address as that given in the LDC application. I have also been provided with a UK Power Networks ‘form of consent’, signed by Diana Palczewski, dated 12 August 2017. But the relevance of this document to the use of the appeal site is entirely ambiguous.
16. A letter by J D Cove, dated 4 April 2022, refers to witnessing the appellant “using a caravan, an outside toilet, storage and workshop buildings” on the appeal site “for around 10 years”. But this letter is not clear that the relevant land use is the same as that stated in the LDC application. Moreover, “around 10 years” is not sufficiently precise a time period for the purposes of section 171B of the 1990 Act.
17. I have been provided with letters, from Alexandra and Rupert Proctor, Julian Marin, Thomas Stovold, John O'Donnell, and Richard and Natalie Collin, all written in March 2025. But none of these provide a description of the use of the appeal site and so they do not help the appellant's case.
18. An undated invoice from RA Blackford states that fuel has been supplied since 2012. But this says nothing about the use of the appeal site.
19. The appeal submissions and declarations noted above describe and annotate Buildings A, B, C and D and it is stated that the various structures have been on the land for more than 4 years. But as per page 4 of the LDC application form, the LDC before me is for an existing use, not existing building works. A caravan on the appeal site is said to be used as “a rest room” but this does not assist me in determining whether the appeal site has been used as described in the LDC application for the relevant time period.
20. According to the appellant, the Council's enforcement officer confirmed the use was established. But nothing to this effect has been provided by that officer and nor need they have because, as set out above, the applicant is responsible for providing sufficient information to support an LDC application, not the Council.
21. The appellant makes the point that they have owned and used the land since 2004. But as the Council has already pointed out, proof of ownership is not proof of continuous use and, as I have found, the information provided about the use is problematic, as detailed above.
22. Taking all of the above into account, I am not satisfied that the appellant's evidence is sufficiently precise and unambiguous to demonstrate on the balance of probability that the appeal site changed to the use described in the LDC application and continued to be so used for at least 10 years after the date of the change and before the date of the application, such that the Council could have taken enforcement action at any time during that 10 year period.

Other Matters

23. The appellant has referred to letters of support. But these make no difference in the absence of precise and unambiguous information about the lawfulness of the

use described in the LDC application. Nor does the time taken by the Council to decide the application, or the way in which the application was handled by the Council.

24. The Council states that it appears that the enforcement notice, noted above, has not been complied with. But whether any of the requirements of the enforcement notice have been complied with or not is a matter for the Council, particularly given that what is attacked by the enforcement notice is not the same as the matter which is before me, described in the LDC application.

Conclusion

25. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for: "Use of land for landscaping business and recreational purposes," was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

L Perkins

INSPECTOR