

Appeal Decision

Site visit made on 29 September 2026

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2026

Appeal Ref: APP/E2001/X/25/3366277

Mere Farm Cottage, The Hayloft, Hunmanby Road, Burton Fleming, East Riding of Yorkshire YO25 3PT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Miss Rachael Townsend against the decision of East Riding of Yorkshire Council.
 - The application ref 24/02954/CLE, dated 6 October 2024, was refused by notice dated 13 December 2024.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which a certificate of lawful use or development is sought is described as “continued use as a holiday let”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. For the sake of clarity, I have taken the address of the site from the application form. I am satisfied that the property I saw at my site visit relates to the property subject of this appeal.

Main Issue

3. The main issue is whether the Council’s decision to refuse a LDC was well-founded.

Reasons

4. Section 191(2)(a) of the Act provides that uses and operations are lawful at any time if 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.
5. With regard to use of land section 171B(3) of the Act states that no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach. Therefore, in this case, in order to be lawful the use described must have commenced at least 10 years before the application date (hence before 6 October 2014) and continued without any significant interruption thereafter for at least a 10 year period of time.
6. The burden of proof is on the appellant, and the relevant test is the ‘balance of probability’. If the local planning authority has no evidence itself to contradict or otherwise make the appellant’s version of events less than probable, there is no good reason to refuse the application, provided that the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probabilities. It is therefore necessary to consider whether, on the facts of

the case and relevant planning law, the specific use for which a certificate is sought was lawful at the date of the application.

7. The appellant claims that the appeal property has been in use as a holiday let since around 2005 with submitted evidence to establish this including emails from previous owners, affidavits from a builder, Peter Harrison, and a customer, Alexis Anne Gildea, Google Maps Historical Imagery and reference to advertisements on websites. This evidence is examined in the following paragraphs.
8. In the affidavit from Peter Harrison, it is described that the property was converted for use as a holiday let in 2005. Peter Harrison undertook work to the building which included roof repairs, creation of two bedrooms, a bathroom and a kitchen dining/living room, and installation of a wood burner, electric heaters with immersion heater and step access to first floor. It is further explained that Peter Harrison visited the appeal property on 13 March 2025 confirming that the room layouts remain the same and that a lot of the items and decoration in the property he had fitted in 2005. The affidavit by Peter Harrison, however, does not provide any substantial evidence of the use of the property between the years of 2005 and 2025, and therefore does not show a continuous uninterrupted period of the property being in a holiday let use for 10 years.
9. The affidavit from Alexis Anne Gildea describes that the appeal property was used as a holiday let for a couple of nights in August 2012 and then again in 2014. This affidavit does not provide any other dates when the property was in use as a holiday let and therefore there is no confirmation that the appeal property was in use as a holiday let for a continuous period for 10-years.
10. The appellant acknowledges there is a notable gap between 2015 and 2018 in terms of the use of the appeal property as a holiday let. The appellant further states however, that there is an implied continuity of use from the ongoing operation of Bobby Bees caravan park that supports the presumption that the appeal property continued to function as a rental property. Whilst the evidence suggests that the appeal property and Bobby Bees caravan park were in the same ownership, there is no convincing evidence, including business rate details for the appeal property, that confirms that the appeal property was directly linked to the operations of Bobby Bees caravan park or in use as a holiday let for a continuous 10-year period.
11. The appellants statement of case details that the Council accepted business rates for the appeal property from June 2018 onwards. Insufficient information is provided detailing the specifics of the business rates for the appeal property and given the claim is that business rates were only from 2018, this does not provide evidence of the property being in use as a holiday let for a 10-year period.
12. The appellant claims the 2017 property deeds refers to the appeal property as a barn converted for use as a holiday let only, with covenants restricting alternative uses. Whilst there are some documents submitted related to title register, there is minimal convincing evidence that details the use of the appeal property, particularly for a continuous period of 10-years.
13. Numerous Google images have been submitted which shows that the hole in the roof of the property in 2005 was repaired by 2007. Whilst this provides an indication that works was undertaken to the property, it does not offer any substantial evidence about the use of the property. Google images, from 2014 through to June 2023, also show the bed icon over the location of the appeal property. It has been described

that the bed icon is consistent with a categorisation as a holiday accommodation. The placement of a bed icon on Google does not provide compelling evidence that the appeal property was used as a B&B or holiday let though, and this does not convince me that the property was a holiday let for a continuous period of 10-years.

14. The appellant has indicated that they have advertised the property as a holiday let on various websites including East Yorkshire, Facebook, Booking.com and AirBnB, as well as the previous owner advertising on Cylex UK, Rent by Owner and Yorkshire Hotel. I also note the AirBnB verification provided in appendix 10 of the appellants statement of case. Nevertheless, minimal information has been provided in terms of these advertisements such as the period of time in which these advertisements took place, and whether any bookings came from them. The advertisements do not provide substantial evidence that the property has been in continuous use as a holiday let for a 10-year period.
15. Reference is made to an email from former owner, Gary Baker, which states that the appeal property was fully operating as a holiday let business in June 2017, although there is nothing compelling to indicate how long the property had been in a holiday let use either prior to June 2017 or following this. This evidence does not provide convincing information that the appeal property was in holiday let use for a 10-year continuous period.
16. The appellant in their statement of case refers to a couple of planning applications including one in 2015 by previous owner, Robert Mason, relating to conversion of a store room, and also an application¹ made by Scenic View Caravan Park. Reference is also made to the site containing listed buildings and site inspections made by the Council's Senior Conservation Officer, Stephen Walker. These matters however do not provide substantial evidence as to the actual use of the appeal property.
17. Reference is made to the site containing listed buildings and site inspections and report made by Stephen Walker. The appellant also details that the Council have wrongly stated that the appeal property is agricultural. At my site visit, it appears that the appeal property is now in a holiday let use. However, there is no compelling evidence, including the dealings from Stephen Walker, that the property has been in a continuous 10-year use as a holiday let.
18. Accordingly, having regard to all the evidence before me, I find as a matter of fact and degree and on the balance of probability, that the appeal site has not been in use as a holiday let for a continuous period of more than 10 years before the date of the application.

Conclusion

19. I conclude on the balance of probability, that the Council's refusal to grant a LDC in respect of the use of the appeal property as a holiday let, was well-founded and that the appeal should fail. I exercise accordingly the powers transferred to me under section 195(3) of the Act.

Chris Baxter

INSPECTOR

¹ Ref: 18/00159/PLF