STATEMENT OF CASE

Appeal under Section 195 of the Town and Country Planning Act 1990

Against the refusal of a Certificate of Lawful Use or Development (Existing)

Appellant
Mr Ghulam Khan
Site
Alderlands, James Road, Crowland, Spalding, Lincolnshire PE6 0AA
OS Grid Reference
E 523823 N 308950
Local Planning Authority
South Holland District Council
LPA Reference
H02-0058-26
Decision Date
13 March 2026
Date of this Statement
18 May 2026
Procedure Sought
Written Representations
Agent
Ali Yasin, Planmore Design Architecture, 960 Capability Green, Luton, LU1 3PE

1. INTRODUCTION

1.1 The appeal in summary

1.1.1 This appeal is brought under Section 195 of the Town and Country Planning Act 1990 ("the Act") against the refusal by South Holland District Council ("the LPA") to issue a Certificate of Lawful Use or Development under Section 191 of the Act in respect of the existing use of land at Alderlands, James Road, Crowland for the storage of motor vehicles within Use Class B8 (Storage and Distribution).
1.1.2 The application was made on 23 January 2026 and refused on 13 March 2026. The LPA's reasons were, in summary, that the historic use was considered materially different in character and function from the current vehicle-storage use, and that the Appellant had not demonstrated continuous use for the requisite period.

1.1.3 The Appellant respectfully submits that the refusal proceeded on a mistaken understanding of the site's planning history. The land has, on the evidence, retained the essential planning character of a transport and vehicle-storage yard for over thirty years. This is established by, amongst other matters, a Section 191 Lawful Use Certificate issued by South Holland District

Council in 1993/1994 under reference H02/1113/93, confirming the use of land at Alderlands as a "general haulage depot, including occasional storage ancillary to the haulage use." The Appellant's case is that the certified land corresponds with the present application site, with the Schedule 2 plan awaited from the LPA for final confirmation. That certificate does not appear to have been before the case officer who determined the present application. Had it been considered, together with the wider planning history, the Appellant submits that the application ought to have been granted.

1.2 The decision under appeal

1.2.1 The LPA's decision notice records two grounds of refusal. First, that the historic lawful use of the site "comprised an operational bus/coach depot with ancillary industrial activities, which is materially different in character and function from the current use described as vehicle storage." Second, that the LPA was "not satisfied that the current use has been carried on continuously for the requisite period."
1.2.2 Both grounds are answered fully in this Statement.

1.3 The relief sought

1.3.1 The Appellant respectfully invites the Planning Inspectorate to allow this appeal and to issue a Certificate of Lawful Use or Development confirming that the use of the application site for the storage of motor vehicles falling within Use Class B8 is lawful within the meaning of Section 191 of the Act; or, in the alternative, to issue such certificate in narrower terms as the Inspector considers justified on the evidence (as set out at paragraph 9.7 below).
1.3.2 The Appellant additionally reserves the right to make an application for an award of costs at the conclusion of these proceedings.

1.4 Procedural choice

1.4.1 The Appellant requests that the appeal be determined by way of Written Representations. The issues are primarily legal in nature, the relevant evidence is documentary, and the matter is suitable for paper determination.

1.5 Summary of grounds

1.5.1 The Appellant relies on six grounds of appeal, summarised here and developed in Section 5:

(a) **Ground 1:** The 1993 Section 191 Certificate is a determination of substantial weight which appears not to have been considered in the determination of the present application.
(b) **Ground 2:** The historic primary use was haulage/depot storage; painting and maintenance activities were ancillary.
(c) **Ground 3:** There has been no material change of use.
(d) **Ground 4:** The lawful use was not abandoned, notwithstanding the cessation of the previous operator's business and the death of the former proprietor.
(e) **Ground 5:** The evidence supports continuity of the storage/depot and vehicle-yard character of the land over a period exceeding ten years.
(f) **Ground 6:** The essential planning character of the land — as a transport and vehicle-storage operational yard — has remained consistent throughout, and the current use falls within that established character.

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2. THE APPLICATION SITE

2.1 Location

2.1.1 The application site comprises approximately 1.66 hectares (16,652 square metres) of predominantly hardstanding land located on the eastern side of James Road, at the southern approach to the settlement of Crowland in Lincolnshire. The site lies immediately north of the A16/B1166 roundabout junction.
2.1.2 The OS grid reference for the site is E 523823 N 308950.

2.1.3 The site is shown edged red on the Site Location Plan at Appendix F.

2.2 Physical description

2.2.1 The application site comprises an established area of hardstanding upon which the historic depot operations have been conducted for many decades. The land is flat, accessed from James Road, and bounded by residential properties to the north (developed after the depot use was established), James Road to the east, open agricultural land and the A16/B1166 roundabout to the south, and agricultural land and a drain to the west.
2.2.2 The boundaries are enclosed by a combination of fencing and mature vegetation. Remnants of a steel-framed depot structure remain on site from the historic operation. The hardstanding is the same physical surface that has supported the commercial activities at the site since at least 1993.

2.2.3 The site lies within Environment Agency Flood Zone 3. This is not a determinative matter for the present Section 191 appeal, which concerns the lawfulness of the use rather than its planning merits.

2.3 Ownership

2.3.1 The Appellant, Mr Ghulam Khan, owns the entirety of the land outlined in red on the Site Location Plan, and the wider holding outlined in blue on the same plan. HM Land Registry title plan and register are at Appendix N.
2.3.2 The use of the wider holding outside the red-line application site is not the subject of this appeal. The Appellant uses only the existing hardstanding for the storage of motor vehicles. No expansion onto previously undeveloped land is proposed, contemplated, or undertaken. The remaining land within the wider holding is left in its natural state.

2.4 The current use

2.4.1 The current use of the application site is the open storage of motor vehicles on the existing hardstanding. The use is passive in character. No sales, repairs, servicing, valeting, breaking, MOT testing, refuelling, or other operational activities take place on site.
2.4.2 No new buildings or structures have been erected. No new hardstanding has been laid. The use is confined to the same physical footprint as the historic depot.

2.4.3 The use falls within, or is closely aligned with, the storage and distribution function of Use Class B8 under the Town and Country Planning (Use Classes) Order 1987, as amended. The use involves managed vehicle storage, with occasional vehicle movements associated with the arrival and removal of stored vehicles. It does not involve frequent daily commercial traffic, customer visits, sales, repairs, servicing, valeting, dismantling, MOT testing, refuelling, or other operational activities.

2.4.4 **Continuity of operational character.** The application site has, throughout its history, functioned as a vehicle-based operational and storage yard. The historic haulage and depot use incorporated the standing and storage of commercial vehicles on the hardstanding, together with such maintenance and presentation of those vehicles as supported the primary depot use. The current use — the standing and storage of motor vehicles on the same hardstanding — is consistent with that established planning character. While the operational form has evolved over time, in that active maintenance functions associated with a working fleet are no longer carried on, the essential planning character of the land as a vehicle-storage yard has remained consistent. The remaining structures, described in the case officer's report as "remnants of a steel frame structure that is related to a former use of the site as a council depot," are inactive but support the site's continuing physical character as a former operational yard.

2.5 Acquisition and reliance

2.5.1 The Appellant purchased the application site by private treaty. Conveyancing was undertaken in the usual way through the Appellant's solicitor, who carried out the standard local authority and

planning searches before completion. The estate agent's brochure described the property in terms reflective of its established commercial use.

2.5.2 The Appellant's intention from the outset has been to continue the established use of the application site as a vehicle-storage yard, by using the existing hardstanding for the standing and storage of motor vehicles. The Appellant has not constructed any new building or structure, has not extended hardstanding onto previously undeveloped land, and has not introduced any operational activity beyond the storage of vehicles. The Appellant relied on the documentary evidence of established commercial use disclosed during the conveyancing process, and on the visible character of the site as a vehicle-storage yard, in concluding that the continued use of the land for the storage of motor vehicles would be lawful.

2.5.3 **The retrospective planning application (H02-0817-25).** The Appellant acknowledges that a retrospective planning application was submitted in 2025. That application was made on a without-prejudice basis, in order to regularise the position in the alternative should the use be found to require permission. It was not, and should not be taken as, an acceptance by the Appellant that the use lacked lawful status or that a material change of use had occurred. The Appellant's primary position has at all times been that the use is lawful by reason of its established planning history, as now advanced in this appeal.

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3. PLANNING HISTORY — THE LPA'S OWN RECORD

3.0 Chronology

3.0.1 The planning and operational history of the land is summarised in the following chronology:

Date
Event

1993/1994
Section 191 Certificate of Lawful Use issued by SHDC — "general haulage depot, including occasional storage ancillary to the haulage use" (H02/1113/93)

1996
Change of use approval — touring caravan site within the wider holding (H02-0731-96)

1999

Continuation of caravan use within the wider holding (H02-0786-99)
1999–2019
Operational use of the site as a vehicle depot, including the standing, storage, repair and presentation of vehicles
2017
Retrospective caravan-site extension application, refused on flood-risk policy grounds; site recorded by the LPA as “Alderlands Caravan Park” (H02-0413-17)
9 Jan 2020
LPA grants permission for a B8 self-storage facility within the wider holding (H02-0020-20)
22 Jul 2021
LPA issues Section 192 certificate confirming lawful caravan-storage use within the wider holding (H02-0505-21)
Late 2023
Following the death of the former proprietor, the estate sells the land; the Appellant acquires it
2024
The Appellant resumes vehicle-storage use of the existing hardstanding
3 Nov 2025
Retrospective planning application refused on policy grounds (H02-0817-25)
23 Jan 2026
Application for Certificate of Lawful Use or Development made (H02-0058-26)
13 Mar 2026
Application refused — the decision now under appeal

3.1 The 1993 Section 191 Certificate — H02/1113/93

3.1.1 The application was recorded under reference H02/1113/93, received in 1993; the certificate is recorded in the selling agent’s particulars (Appendix P) as dated 2 February 1994. The precise certificate date, and the attached Schedule 2 plan, have been requested from the LPA under the Environmental Information Regulations 2004 and will be confirmed on receipt.
3.1.2 The certificate certified the use of the premises as follows:

Schedule 1 — Description of Use or Operation
“Use of premises as haulage depot (including occasional storage ancillary to the haulage use).”
Schedule 2 — Land Specified
“Premises (as shown on the attached plan) at Alderlands, Peterborough Road, Crowland (excluding the dwellinghouse and associated domestic curtilage).”
3.1.3 The certificate is reproduced at Appendix A. The Schedule 2 plan has been requested from South Holland District Council under the Environmental Information Regulations 2004 and will be supplied to the Inspectorate during the evidence period.
3.1.4 The 1993 certificate is of fundamental importance to this appeal for the following reasons:

(a) **It carries conclusive statutory weight.** Section 191(6) of the Act provides that “the lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.” The lawfulness of the haulage depot use on the land certified by the 1993/1994 certificate is therefore conclusively presumed from the date of the certificate. The Appellant submits that the certified land corresponds with the present application site, subject to final confirmation by the Schedule 2 plan.
(b) **It identifies a storage use.** A “general haulage depot” is a use strongly associated with the storage and distribution functions of Class B8.
(c) **It applies the ancillary doctrine.** The LPA itself, in 1993, identified “occasional storage” as “ancillary to the haulage use.” This is the very doctrine the Appellant relies on in this appeal in respect of the painting and maintenance activities.
(d) **It defines the certified land.** Schedule 2 excludes the dwellinghouse and domestic curtilage and appears, on the Appellant’s case, to relate to the working land now used for vehicle storage. The precise extent will be confirmed on receipt of the attached Schedule 2 plan from the LPA.

3.1.5 The road name shown in the 1993/1994 certificate (“Peterborough Road”) is understood to correspond with what is now James Road in respect of this stretch. The Appellant relies on the

address history, planning history, and forthcoming Schedule 2 plan to confirm the relationship between the historic certificate and the present application site.
3.1.6 The 1993 certificate does not appear to have been before the case officer who determined application H02-0058-26; the delegated report makes no reference to it. The Appellant respectfully submits that this represents a material omission in the assessment of the historic lawful use of the land.

3.2 Subsequent planning history at the wider holding

3.2.1 The wider holding now in the Appellant's ownership has been the subject of a number of further applications which evidence continued vehicle-related, caravan-related and storage/depot uses recognised by the LPA over the past three decades.
3.2.2 **1996 — Application H02-0731-96.** Approval for a change of use from "CL site" to touring caravan site, with an increase from 5 to 9 vans (and 15 at Bank Holidays). This represents an approved vehicle/caravan-related use within the wider holding.

3.2.3 **1999 — Application H02-0786-99.** A Section 73A continuation of permission, confirming the caravan-related use was continued and recognised at the wider holding in 1999.

3.2.4 **2017 — Application H02-0413-17.** A retrospective application for "Change of use of land for extension of caravan site" at the address described in the LPA's own records as "Alderlands Caravan Park, James Road, Crowland." The application was refused on flood risk policy grounds. The application is relevant because the LPA itself, in 2017, characterised the site as a caravan park — a vehicle/caravan-related use — and treated the use as a known and continuing one.

3.2.5 **2020 — Application H02-0020-20.** South Holland District Council granted full planning permission on 9 January 2020 for a "Proposed self-storage facility (B8 Use Class) including secure compound access and parking and removal of existing dilapidated industrial building" on land at James Road, Crowland (PE6 0AA). The grant of a B8 self-storage use within the wider holding in 2020 is consistent with the continued storage character of the land during a period the LPA now characterises as one of dormancy.

3.2.6 **2021 — Application H02-0505-21.** South Holland District Council issued a Section 192 Lawful Use Certificate on 22 July 2021 in respect of "use of land for touring caravans without limitation on the number of caravans for 12 months a year" at land at James Road, Crowland, within the wider holding. This is consistent with the LPA's continued recognition of vehicle/caravan-related use within the wider holding during the relevant period.

3.2.7 Taken together, these decisions evidence sustained recognition by the LPA of vehicle-related, caravan-related and storage/depot uses across the wider holding from 1993 through to 2021 — a period of nearly thirty years. These are relied upon as contextual corroboration of the continuing operational character of the holding, rather than as determinative of the use of the application site itself.

3.3 The 2025 refused planning application — H02-0817-25

3.3.1 In 2025, a retrospective planning application was submitted in respect of the application site under reference H02-0817-25 for "Change of use of part of land from former bus/coach yard to vehicle storage (Sui Generis) for up to 50 cars." That application was refused on 3 November 2025.
3.3.2 The reasons for refusal were policy-based, focused on the site's location outside the defined settlement boundary and on visual impact at the gateway to Crowland. The application did not concern, and the refusal did not adjudicate, the lawfulness of the existing use.

3.3.3 All statutory consultees responded to H02-0817-25 with no objection. The refusal was on planning policy grounds only, not on grounds of harm to controlled matters.

3.3.4 H02-0817-25 was made on the basis that the use was a sui generis change of use requiring planning permission. The present appeal proceeds on a different and prior basis: that no planning permission was ever required because the use is already lawful by reason of its established history.

3.4 The decision under appeal — H02-0058-26

3.4.1 The application now under appeal was made on 23 January 2026. It sought a Certificate of Lawful Use or Development confirming that the existing use of the application site for the storage of motor vehicles (Use Class B8) is lawful.
3.4.2 The application was determined under delegated powers and refused on 13 March 2026.

3.4.3 The case officer's delegated report does not appear to refer to the 1993 certificate (H02/1113/93), to the 2020 self-storage approval (H02-0020-20), or to the 2021 lawful use certificate within the wider holding (H02-0505-21). The significance of these matters is addressed in Section 6 below.

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4. LEGAL FRAMEWORK

4.1 Section 191 of the Town and Country Planning Act 1990

4.1.1 Section 191(1) of the Act provides that any person who wishes to ascertain whether an existing use of land is lawful may make an application to the local planning authority for the purpose.
4.1.2 Section 191(2) provides that "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 any enforcement notice then in force."

4.1.3 Section 191(4) imposes a mandatory duty on the LPA: "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, operations or other matter described in the application … **they shall issue a certificate to that effect**; and in any other case they shall refuse the application." (Emphasis added.)

4.1.4 Section 191(6) provides that "the lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be **conclusively presumed**." (Emphasis added.)

4.1.5 The standard of proof in applications under Section 191 is the civil standard, namely the balance of probabilities. The burden falls on the applicant. The Appellant submits that the burden is discharged on the evidence in this appeal.

4.2 Section 171B(3) — the ten-year immunity period

4.2.1 Section 171B(3) of the Act provides that "in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach."
4.2.2 The ten-year period prior to the application made on 23 January 2026 commenced on 23 January 2016. The Appellant's case on continuity, storage/depot character, absence of abandonment and the planning character of the land is addressed in Section 5 below.

4.3 The Town and Country Planning (Use Classes) Order 1987

4.3.1 The Town and Country Planning (Use Classes) Order 1987, as amended, classifies uses into specified use classes. Use Class B8 comprises "use for storage or as a distribution centre."
4.3.2 A general haulage depot is ordinarily closely aligned with the storage and distribution functions of Class B8. The open storage of vehicles on land may also fall within, or be closely

aligned with, storage and distribution functions, although the precise classification of any given use depends on its particular character, scale and operational circumstances.

4.3.3 Section 55(2)(f) of the Act provides that a change of use within the same use class is not to be taken as involving development of the land. **A change of use within the same use class is therefore not development and does not require planning permission.**

4.4 The ancillary use doctrine

4.4.1 It is a long-established principle of planning law that activities which are functionally subordinate to a primary use are ancillary to that primary use and do not constitute a separate planning unit.
4.4.2 In the present case, the Appellant submits that the historic depot use involved the storage and standing of vehicles together with activities supporting that primary depot function, including maintenance and presentation of the fleet. Such supporting activities are properly considered in their operational context and should not automatically be treated as a separate primary industrial use.

4.4.3 The LPA itself, in the 1993/1994 certificate, recognised the relationship between the haulage depot use and associated storage. The Appellant submits that this supports the characterisation of the historic use as a depot/storage use with ancillary supporting activities, rather than a separate industrial use whose cessation created a materially different planning character.

4.5 The test for abandonment

4.5.1 A lawful use of land may be lost by abandonment. The leading authority on the test for abandonment is *Hartley v Minister of Housing and Local Government* [1970] 2 QB 413, which establishes a four-stage assessment requiring consideration of:
the physical condition of the land;
the period of non-use;
whether there has been any intervening use; and
the intention of the owner.
4.5.2 Intention is a central factor in that assessment. Mere non-use, even for a material period, does not necessarily amount to abandonment if the physical character of the land is retained, no materially different intervening use occurs, and the evidence does not demonstrate an intention to abandon the planning use.

4.6 Cessation of a business or change of owner is not abandonment

4.6.1 A lawful use of land is not abandoned merely because a particular operator ceases trading, or because the registered proprietor dies and the land passes to executors. The cessation of a business, or a transition in ownership, interrupts the operation of an enterprise but does not, of itself, evidence an intention to abandon the planning use of the land. Where the physical character of the land is retained, no intervening use occurs, and the established use is resumed, the lawful use is not lost.

4.7 Operator change is not use change

4.7.1 A change in the identity of the operator of a planning use is not, in itself, a change of use. The relevant question is the use of the land, not the identity of the user. This is consistent with the established principle that planning controls the use of land, not the personal qualifications of the occupier.
4.7.2 The cessation of trading by a particular operator at the site is not determinative of whether the lawful planning use of the land has been abandoned. The Appellant’s case is that the planning character of the land remained that of a vehicle-based depot/storage yard, notwithstanding the cessation of the previous operator’s business.

5. GROUNDS OF APPEAL

5.1 Ground 1: The 1993 Section 191 Certificate and its weight

5.1.1 On or about 1993/1994, South Holland District Council issued a Section 191 Lawful Use Certificate under reference H02/1113/93 in respect of land at Alderlands, Crowland. The Appellant submits that the certified land corresponds with the present application site, subject to confirmation by the Schedule 2 plan. The certificate confirmed the lawful use of the premises as "haulage depot (including occasional storage ancillary to the haulage use)."

5.1.2 By operation of Section 191(6) of the Act, the lawfulness of the use the subject of that certificate is conclusively presumed. The certificate is a determination of the LPA to which substantial weight attaches.

5.1.3 The case officer's delegated report on the present application appears to make no reference to the 1993 certificate. It does not feature in the planning history section, nor in the assessment.

5.1.4 The Appellant respectfully submits that the determination of an application concerning the historic lawful use of land is difficult to reconcile with the omission of a binding statutory certificate concerning the historic haulage/depot use at Alderlands.

5.1.5 The 1993 certificate is a public document held in South Holland District Council's own planning records, searchable through the LPA's online planning portal. The Appellant submits that it ought properly to have been considered in any assessment of the historic lawful use of the site.

5.1.6 The Inspector is invited to note that the premise of the case officer's reasoning — that the historic use was not a storage use — is difficult to reconcile with the LPA's own characterisation of the use, in 1993, as a "haulage depot."

5.1.7 The 1993 certificate is a matter of substantial weight and significance in determining the historic lawful planning character of the land. The Appellant submits that substantial weight should be attached to it, and that it ought properly to have informed the determination of the present application.

5.2 Ground 2: The primary historic use was haulage/depot storage; painting and maintenance were ancillary

5.2.1 If, contrary to Ground 1, the Inspector considers it necessary to examine the historic use afresh, the Appellant submits that the proper characterisation is that the primary historic use was a haulage/depot storage use, with painting and maintenance activities ancillary to that primary use.

5.2.2 The LPA's case officer characterised the historic use as "an operational bus/coach depot incorporating maintenance, industrial painting and associated infrastructure" and concluded that this constituted "a mixed operational bus/coach depot with industrial painting, not a Class B8 storage use."

5.2.3 This characterisation risks inverting the planning unit. A haulage or bus depot operates *because of* the vehicles it stores. The vehicles are the reason for the operation. The painting and maintenance activities exist *because of* the vehicles — to keep the stored fleet roadworthy and presentable. Those activities are subordinate to, and functionally dependent on, the primary storage use, and are properly regarded as ancillary to it.

5.2.4 The LPA's own 1993/1994 certificate supports this characterisation. The certificate identified the use as a haulage depot and referred to storage as ancillary to that haulage use. This supports the Appellant's submission that supporting painting and maintenance activities should be evaluated in their operational context, rather than treated as the primary planning use.

5.2.5 If the case officer's approach were applied too broadly, routine supporting activities at vehicle depots could wrongly be elevated into a separate industrial planning use. The Appellant submits that this is not the correct planning characterisation of the historic depot operation.

5.2.6 The Appellant submits that the primary character of the application site has at all material times been that of a haulage/depot, storage and vehicle-yard use closely aligned with storage and distribution functions. The painting and maintenance activities historically conducted on the site were ancillary to that primary depot/storage function. The change from active fleet maintenance to managed vehicle storage represents a reduction in ancillary activity rather than a material change in the essential planning character of the land.

5.3 Ground 3: There has been no material change of use

5.3.1 Section 55(2)(f) of the Act provides that a change of use within the same use class is not development.

5.3.2 The historic certified use was a haulage depot, involving the standing, storage and operational management of vehicles on the land, and closely associated with storage and distribution functions.

5.3.3 Subsequent uses recognised by the LPA within the wider holding have included touring caravan-related use, bus and coach depot activity, self-storage approved in 2020, and the current motor vehicle storage use. These matters are relied upon as contextual evidence of the continued vehicle-related and storage/depot character of the holding, rather than as determinative proof of the precise lawful use of the application site.

5.3.4 Each of these matters is consistent with a continuing storage, depot and vehicle-related operational character. The current standing and storage of motor vehicles on the existing hardstanding shares that established character. The Appellant submits that the movement between closely related forms of vehicle standing/storage use on the same operational yard does not amount to a material change in the essential planning character of the land.

5.3.5 The case officer's contention that the current use is "materially different in character and function" from the historic use is, the Appellant respectfully submits, difficult to reconcile with the established depot/storage character of the land. The relevant question is not simply whether the type of vehicle stored has changed, but whether the essential planning character of the land has materially changed. The Appellant submits that it has not: the land remains a vehicle-based operational/storage yard.

5.3.6 The Appellant notes, without it being central to the question of lawfulness, that the current use involves fewer supporting operational activities than the historic depot use. The point is made only to demonstrate that the current arrangement is consistent with the established storage/depot character of the land, rather than a materially different use.

5.4 Ground 4: The lawful use has not been abandoned

5.4.1 The case officer's second ground of refusal relied on the assertion that the use has not "subsisted continuously" for the requisite period. The Appellant accepts that the intensity of active operations reduced in the period following the cessation of the previous operator's trading and the subsequent death of the former registered proprietor. The Appellant denies that this constituted abandonment of the lawful use in law.

5.4.2 It is well established that a lawful use of land is not abandoned merely because a particular operator ceases trading, or because the registered proprietor dies and the land passes to executors for sale. The relevant question is the use of the land, not the continuity of any particular business or owner. The four-stage test for abandonment in *Hartley v Minister of Housing and Local Government* [1970] 2 QB 413 requires consideration of:

(a) **Physical condition.** The hardstanding remained intact throughout. The boundary structures and the steel-framed depot building remained in place. The site retained the physical character of a vehicle storage yard throughout, as evidenced in the aerial imagery at Appendix E.

(b) **Period of non-use.** Any period of reduced operation was finite and was the consequence of the winding-down of the previous operator's business and the death of the former proprietor, followed by a period during which the estate was administered and the land marketed for sale. Such a period of transition between owners does not, of itself, constitute abandonment.
(c) **Intervening use.** No different use of the site occurred. The land was not converted to agriculture, residential use, or any other purpose. It retained its established vehicle-storage character throughout.
(d) **Intention.** Intention is a central limb of the assessment. There is no evidence of any intention to abandon the lawful use. The reduction in active operation arose from a combination of involuntary external circumstances: the cessation of the previous operator's trading; the COVID-19 pandemic, which disrupted many commercial, property and estate-administration processes during the relevant period; and the death of the former proprietor, followed by the administration and sale of her estate. These events interrupted the operation of a particular business and prolonged the period of reduced activity, but they do not, of themselves, demonstrate an intention to abandon the planning use of the land. The land was marketed and sold as a property whose established commercial use was a feature of its description, and the Appellant acquired it for the purpose of continuing that established storage use.

5.4.3 The selling agent's particulars described the property as comprising "a haulage depot and caravan park" and referred expressly to the 1993 Certificate of Lawful Use or Development. The established use was therefore held out, at the point of sale, as a continuing feature of the land. The Appellant notes that the sale was expressed to be with "vacant possession" — but this is a conveyancing term concerning the physical occupation of the property on completion; it does not, in law, equate to the abandonment of an established planning use of the land. Those matters support the Appellant's case that the land's established planning character endured through the ownership transition and was not abandoned.

5.4.4 The Appellant further notes, as corroborative context, that the LPA continued to recognise vehicle-related and storage uses within the wider holding during the relevant period. In 2020 the LPA granted planning permission for a B8 self-storage facility within the wider holding (H02-0020-20), and in 2021 issued a Section 192 certificate confirming lawful caravan use within the wider holding (H02-0505-21). While these determinations relate to the wider holding rather than determining the status of the application site itself, they are consistent with the continued operational character of the land during the period the LPA now characterises as one of dormancy.

5.5 Ground 5: The evidence supports continuity of the storage/depot and vehicle-yard character over more than ten years

5.5.1 Section 171B(3) of the Act provides that no enforcement action may be taken in respect of a change of use after the end of the period of ten years beginning with the date of the breach. The period of ten years prior to the present application commenced on 23 January 2016.

5.5.2 Without prejudice to the Appellant's primary case that no material change of use has occurred, the Appellant submits that the underlying storage and vehicle-yard character of the land has existed for well in excess of ten years. The Appellant does not rely on a new material change of use having occurred in 2024; rather, the case is that the 2024 resumption of vehicle storage was a continuation, or at most a non-material evolution, of the established storage and vehicle-yard character of the land.

5.5.3 The evidence supporting the continued storage/depot and vehicle-yard character of the land includes:

The 1993/1994 Section 191 certificate establishing lawful haulage depot use on the certified land at Alderlands;
Aerial imagery from 2014, 2018, 2020 and 2025 evidencing the retained hardstanding, access, yard form and vehicle-related character of the land, including periods of reduced activity;
Subsequent approvals and certificates issued by the LPA between 1996 and 2021;
The Appellant's continuation of the use from acquisition in 2024 to date.

5.6 Ground 6: The essential planning character of the land has remained consistent

5.6.1 The question at the heart of this appeal is whether the planning character of the land has materially changed. The Appellant submits that it has not. The land has continuously retained the essential character of a transport and vehicle-storage operational yard.

5.6.2 A comparison of the historic and current characteristics of the land demonstrates this continuity:

Established character (historic)	Current character
Operational vehicle yard	Operational vehicle yard
Open storage of vehicles on hardstanding	Open storage of vehicles on hardstanding
Transport- and vehicle-related activity	Vehicle-related activity
Hardstanding surface	Same hardstanding surface
Single vehicular access from James Road	Same vehicular access
Commercial vehicle presence	Commercial vehicle presence
Depot / storage / yard function	Storage / yard function

5.6.3 While the precise operational form of the site has evolved over time — in particular, the active maintenance and presentation functions associated with a working fleet are no longer carried on — the essential planning character of the land as a vehicle-based operational and storage yard has remained consistent throughout. The land has never been restored to agriculture, never been put to a residential or other use, and has at all times retained the physical and functional character of a commercial vehicle yard.

5.6.4 The Appellant respectfully submits that, on a proper application of planning-character principles, the current use falls within the established lawful use of the land, and the LPA's contention that the use is "materially different in character and function" cannot be sustained.

5.7 Evidential weight

5.7.1 For the assistance of the Inspector, the Appellant identifies the following hierarchy of evidence relied upon:

(a) **Highest evidential weight — the 1993 Section 191 Certificate (H02/1113/93).** A statutory certificate, the lawfulness of which is conclusively presumed under Section 191(6) of the Act.

(b) **Strong corroborative evidence — the LPA's own planning history.** The 1996, 1999, 2017, 2020, and 2021 decisions and certificates, each evidencing the LPA's recognition of vehicle-related, caravan-related and storage/depot uses across the holding.

(c) **Supporting evidence — aerial imagery and the selling agent's particulars.** The annotated aerial imagery at Appendix E demonstrates the physical and functional character of the land over time, including the retained hardstanding, access, yard form and vehicle-storage character. The selling agent's particulars provide further contextual support for the established commercial/depot history of the land.

(d) **Contextual evidence — site photographs and the documentary record of acquisition.** Confirming the condition and use of the land and the basis of the Appellant's acquisition.

6. ADDRESSING THE LPA'S REASONING

6.1 The case officer's report — overview

6.1.1 The case officer's delegated report on H02-0058-26 is reproduced at Appendix C. The Appellant addresses the report's principal contentions below.

6.2 The LPA's first contention: the historic use was not Class B8

6.2.1 At paragraph 4 of the assessment, the case officer states: *"The Local Planning Authority (LPA) does not accept that the historic use of the site comprised a Class B8 storage use."*
6.2.2 This contention is difficult to reconcile with the LPA's own 1993 Certificate (H02/1113/93), which characterises the use as a "haulage depot" — a use strongly associated with storage and distribution functions; with the LPA's own 2020 approval (H02-0020-20) for a "self-storage facility (B8 Use Class)" within the wider holding; and with the LPA's own 2021 Section 192 certificate (H02-0505-21) confirming lawful caravan-related use within the wider holding.

6.2.3 The case officer's premise — that no storage/depot character was established at this location — should therefore be approached with caution in light of the LPA's own historic determinations.

6.3 The LPA's reliance on Table 4.1 of the original supporting statement

6.3.1 The case officer placed weight on Table 4.1 of the Appellant's original supporting statement, which described historic activities including spray painting, compressors, extraction systems, and chemical storage. The case officer used this material to characterise the historic use as "industrial."
6.3.2 The Appellant respectfully submits that Table 4.1 was directed to demonstrating that the current vehicle storage use is materially less intensive than the historic use — a submission relevant to the public-amenity context of the earlier planning application (H02-0817-25) rather than to the legal question of use class.

6.3.3 Properly characterised in planning terms, the activities described in Table 4.1 were ancillary to the primary haulage/depot and storage-yard character of the site. A bus and coach depot, by its nature, may require routine maintenance and presentation of its stored fleet. Those activities existed because of the depot/storage function; they did not necessarily constitute a separate primary planning use. This characterisation is consistent with the LPA's own 1993/1994 certificate, which referred to storage in the context of the haulage use.

6.4 The LPA's contention regarding continuity

6.4.1 At paragraph 5 of the assessment, the case officer states that "the applicant's own chronology identifies a period of closure following the cessation of the coach business … insufficient documentary evidence has been provided to demonstrate, on the balance of probabilities, that the present use has subsisted continuously for a period exceeding 10 years."
6.4.2 The Appellant submits that the case officer applied the wrong test. The relevant question is not whether the *operation* of a particular business has been continuous, but whether the *lawful planning use* of the land has continued. Operator change does not equate to use change.

6.4.3 In any event, the documentary evidence substantially exceeds the ten-year threshold. The 1993 certificate, the subsequent approvals, the aerial imagery, and the LPA's own 2020 and 2021 determinations together support the conclusion that the land has retained a storage and vehicle-

related operational character, closely aligned with storage and distribution functions, over a period well in excess of thirty years.

6.5 The LPA's omissions

6.5.1 The Appellant invites the Inspector to note the following omissions from the case officer's report:
No reference is made to the 1993 Section 191 certificate;
No reference is made to the 2020 self-storage approval (H02-0020-20);
No reference is made to the 2021 lawful use certificate within the wider holding (H02-0505-21);
No application of the ancillary use doctrine is undertaken;
No application of the *Hartley* four-stage abandonment test is undertaken;
No consideration is given to the principle that the cessation of a business, or the death of a proprietor and sale of the land, does not constitute abandonment of the planning use.
6.5.2 The Appellant submits that these matters, taken together, indicate that the determination did not take account of the full planning history and the relevant legal principles, and that the Inspector is invited to consider the question afresh on the complete evidence.

6.6 Public objections and the question of amenity

6.6.1 The case officer's report records that residents and the Parish Council objected to the application. The Appellant has reviewed the objections and notes the following.
6.6.2 The objections largely concern visual impact, neighbour amenity and traffic. Those matters may be relevant to a planning merits application, but they carry limited weight in a Section 191 appeal, which is concerned with the lawfulness of the use rather than whether planning permission ought to be granted as a matter of planning judgment.

6.6.3 Several objections refer to the historic use of the site as a coach depot, thereby confirming the long-established commercial character of the land.

6.7 Residential objections and chronology of surrounding development

6.7.1 The residential properties to the north of the application site — at Sandpiper Close, Spencer Road, and Goldcrest Road — are of recent construction and post-date the establishment of the historic commercial/depot use of the land. The chronology of surrounding development is therefore relevant context when considering objections referring to the character of the site.
6.7.2 In any event, the objections are directed principally at the perceived consequences of the use rather than the question of lawfulness. The Appellant submits that they do not alter the statutory question before the Inspector under Section 191.

6.7.3 The Appellant respectfully submits that the residential objections, properly considered, do not support the LPA's refusal of the certificate sought.

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7. EVIDENCE SCHEDULE

7.1 The following documents are submitted with this Statement of Case:

Appendix	Document	Reference
A	Section 191 Lawful Use Certificate (recorded as dated 2 February 1994)	H02/1113/93
B	Decision Notice refusing the Certificate of Lawful Existing Use or Development, dated 13 March 2026	H02-0058-26
C	Delegated Officer Report on H02-0058-26	ODBPDF420366
D	Original Certificate of Lawful Existing Use Application Form and Supporting Statement (January 2026)	PP-14647006
E	Aerial Imagery (2014, 2018, 2020, 2025), annotated	

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F
Site Location Plan (red-line)
P1
G
Site Plan showing Wider Holding (blue-line)
P2
H
Decision Notice — Self-Storage Facility (B8) dated 9 January 2020
H02-0020-20
I
Section 192 Lawful Use Certificate dated 22 July 2021
H02-0505-21
J
Decision Notice — Caravan Site (1996)
H02-0731-96
K
Decision Notice — Caravan Site Continuation (1999)
H02-0786-99
L
Decision Notice — Caravan Site Extension Refusal (2017)
H02-0413-17
M
Decision Notice — Planning Refusal (2025)
H02-0817-25
N
HM Land Registry Title Plan and Register for the Appellant’s holding (Title LL330010)
—
O
Correspondence with LPA Enforcement Officer
—
P
Selling Agent’s Particulars (Jolliffe Daking, ref 8493N)
—

7.2 The Schedule 2 plan referenced in the 1993 certificate has been requested from South Holland District Council under the Environmental Information Regulations 2004 and will be supplied to the Inspectorate on receipt.

7.3 The Appellant reserves the right to submit supplementary evidence during the statutory evidence period.

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8. APPLICATION FOR AN AWARD OF COSTS

8.1 The Appellant reserves the right to make a full application for an award of costs at the conclusion of these proceedings, in accordance with the Planning Practice Guidance on costs.
8.2 The basis on which an award may be contemplated is, in summary, that the 1993 Certificate of Lawful Use or Development — a determination of substantial weight held within the LPA’s own records — appears not to have been considered in the determination of the present application, and that the LPA’s further determinations of 2020 and 2021 within the wider holding appear similarly not to have been taken into account. The Appellant’s position on costs will depend on the evidence as it develops, including confirmation of the alignment of the 1993 certified land with the application site, and is reserved accordingly.

8.3 The Appellant will make formal application at the conclusion of the appeal, supported by full submissions, in the event that the appeal is allowed.

9. CONCLUSION AND REMEDY SOUGHT

9.1 The land has, on the evidence, retained the essential planning character of a transport and vehicle-storage operational yard for over thirty years. South Holland District Council itself issued a Section 191 certificate in 1993/1994 confirming the lawful haulage depot use of land at Alderlands. The Appellant's case is that the certified land corresponds with the present application site, subject to confirmation by the Schedule 2 plan.
9.2 The current use — the standing and storage of motor vehicles on the existing hardstanding — falls within, or is closely aligned with, the established depot/storage character of the land. The operational form of the site has evolved over time, but the essential planning character of the land has remained that of a vehicle-based operational/storage yard.

9.3 While the operational form of the site has evolved over time, the essential planning character has not materially changed. The land has never been restored to agriculture or put to any other use; it has at all times retained the physical and functional character of a commercial vehicle yard. The surrounding residential development, moreover, post-dates the establishment of that commercial use.

9.4 The lawful use of the land was not abandoned. A particular operator ceased trading and the former proprietor died, following which the estate was administered and the land sold. These events interrupted the operation of a business but did not evidence any intention to abandon the planning use of the land. The land retained its established vehicle-storage character, was marketed and sold as such, and was resumed by the Appellant through the continued standing and storage of motor vehicles on the existing hardstanding. Applying the four-stage test in *Hartley v Minister of Housing and Local Government* [1970] 2 QB 413, the lawful use was retained throughout.

9.5 The Appellant respectfully submits that the LPA's refusal proceeded without full regard to material elements of the site's planning history, including the 1993/1994 certificate and the LPA's further determinations of 2020 and 2021 within the wider holding. On a proper consideration of the evidence, the Appellant submits that the certificate sought ought to be issued.

9.6 The Appellant respectfully invites the Inspector to allow the appeal and to issue a Certificate of Lawful Use or Development under Section 191 of the Town and Country Planning Act 1990, confirming that the use of the specified land for the storage and standing of motor vehicles on the existing hardstanding is lawful within the meaning of the Act.

9.7 Should the Inspector consider that a certificate ought not to be issued in the full terms sought, the Appellant respectfully invites the Inspector to issue such certificate as is justified on the evidence — in particular, a certificate confirming the lawfulness of the use of the existing hardstanding for the storage and standing of motor vehicles, excluding vehicle sales, repairs, servicing, valeting, dismantling, MOT testing and refuelling, and involving no new buildings, structures, external lighting or hardstanding, and no expansion onto previously undeveloped land. Such a certificate would accurately reflect the established and continuing use of the land.

9.8 The Appellant reserves all rights in respect of an application for an award of costs.

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On behalf of: Mr Ghulam Khan, Appellant

Date: 18 May 2026

[END OF STATEMENT OF CASE]