

Signing Off Form

Planning Application Number: CRT/2024/0001

	Cleared By	Date Cleared	Date Forwarded	Notes
Case Officer – Forward to Head of Development Management	RH	7 May 2024		
Head of Development Management for signing by other	JMH	10/05/24		
Signing Off			Tick	
Director of Environment & Planning				
Date:				
	Date	By		
Decision Notice Issued	22/05/24	SB		
Notifications completed	22/05/24	SB		

Development Management



Planning Application Delegated Report

Electoral Division affected: Newton with Clifton
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Date app. valid	Dec. due by
8 April 2024	3 June 2024

Application No. CRT/2024/0001

Lawful development certificate for the use of a lake as a commercial coarse angling facility and for the existing configuration of the fishing lake on land at Lynwood, Blackpool Road, Newton with Clifton, PR4 3RU

Contact for further information:

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Executive Summary

Application – Lawful development certificate for use of a lake as a commercial coarse angling facility fishery and for the existing configuration of the fishing lake on land at Lynwood, Blackpool Road, Newton with Clifton, PR4 3RU.

Recommendation – Summary

That permission be **granted** for the attached lawful development certificate.

Applicant's Proposal

This certificate application seeks to establish the lawfulness of the current configuration of a fishing lake and for use of the lake as a commercial coarse angling facility on land at Lynwood, Blackpool Road, Newton.

The applicant contends that the fishing lakes were first used for commercial purposes in 2011 and the lakes were extended and amalgamated in April 2013, and has been used continually in that form and use since that date. Therefore, a period of more than 10 years prior to the date of the application has passed and is therefore, in excess of the 10-year minimum period as set out at Section 171B of the Town and Country Planning Act 1990 and confirms that the commercial operation of the fisheries with the current extent is and remains lawful.

Description and Location of Site

The site currently comprises a fishing lake and surrounding landscaped grounds over an area of approximately 2 hectares. The site is bordered by grazing land and a playing field alongside the west of the site. The site is accessed by the existing access to a residential property called Lynwood, off Blackpool Road, and via a strip of land to the



side of the property. The rear gardens of three houses that front Blackpool Road (A583) share the southern boundary of the site.

Background

Planning permission was granted on 5 January 2011 for the extraction of clay to form a fishing lake including 5 car parking spaces and alteration of the existing access (ref. 05/10/0641). The permission was subject of a number of planning conditions.

Condition 7 reads as follows:

“Prior to the commencement of development, the boundary of the lakes as shown on drawing PS/04060/003A shall be marked out on the ground using pegs, tape or other form of delineation. No soil stripping or extraction shall take place outside of the area delineated under the requirements of this condition.

Condition 16 reads as follows:

“The fishing lakes shall not be used for commercial purposes.”

Consultations

Fylde Borough Council – No comments received.

Newton with Clifton Parish Council – No comments received.

Representations – Neighbouring residents have been informed by letter. No representations have been received.

Advice

The application is for a certificate of lawful development of an existing use and development.

Planning permission was granted for the fishing lake on this site in 2011. In the application, the applicant maintained that the lake was for his personal use and this was reflected in the wording of condition 16 attached to planning permission ref 5/10/641. The planning application also provided for the retention of an existing pond on the site as a separate feature to the main fishing lake.

The applicant considers that the site has been used as a commercial fishing lake, in breach of planning control, for a period exceeding 10 years and is therefore immune from enforcement action. The excavation works extended to the area of a former pond which was incorporated into the main lake in breach of the approved drawings. However, as these works took place more than 10 years ago and no enforcement action was taken, the landowner considers that these works are now lawful for planning purposes.

The onus of proof in a Lawful Development Certificate application is firmly on the applicant. It is for the applicant to bring forward evidence to demonstrate on the balance of probabilities that the uses and operations taking place on the land are lawful.



In this instance the applicant has submitted evidence in the form of Google Earth imagery and witness statements from the previous owner, anglers and neighbours to seek to demonstrate that the use and operations that have taken place on the site are lawful in planning terms as they have been used for these purposes for a period in excess of ten years.

The Planning Practice Guidance states that for lawful development applications for existing uses, 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 that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Planning officers are not aware of any evidence, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, and therefore there is no good reason to refuse the application.

Taking into account the evidence supplied by the applicant and following a site visit and review of aerial imagery, it is considered that the application site does have a lawful use for that applied for.

Recommendation

That a Lawful Development Certificate be granted for the existing use of a commercial fishery and regularisation of the configuration of the fishing lake.

