

Planning and Environmental Appeals Division
Hadrian House, Callendar Business Park, Falkirk, FK1 1XR
E: dpea@gov.scot T: 0300 244 6668



Scottish Government
Riaghaltas na h-Alba
gov.scot

Town and Country Planning (Scotland) Act 1997 Appeal Decision Notice

Decision by Simon Bonsall, a Reporter appointed by the Scottish Ministers

- Certificate of Lawful Use appeal reference: CLUD-270-2011
- Site address: Balfreish, Cawdor, Nairn, IV12 5XY
- Appeal by Mr and Mrs Lednor against the decision by Highland Council
- Application for certificate of lawful use 25/00158/CLE dated 15 January 2025 refused by notice dated 4 July 2025
- The subject of the application: occasional use of steading as wedding venue
- Date of site visit by Reporter: 20 November 2025

Date of appeal decision: 14 January 2026

Decision

I dismiss the appeal.

Reasoning

1. The application is for a certificate of existing lawful use under section 150(1) of the Town and Country Planning (Scotland) Act 1997 (the 'Act').
2. Section 150(2)(a) of the Act is clear that uses are lawful if no enforcement action may be taken in respect of them whether they did not involve development, or require planning permission, or because the time for enforcement action has expired. It is not claimed that the use would be immune from enforcement action because it has been in operation for ten years or more, so I do not consider that matter further.
3. The evidence put forward in support of the application consists of statements regarding the duration and significance of the use, the effect on the primary purpose of the steading, and effects including for traffic, noise, and the character of the location, with reference to case law. The appellant's case is that the use is de minimis, not a material change of use requiring planning permission.
4. The reason given by the council for the refusal of the application for the certificate is that insufficient evidence is provided to satisfy it on the balance of probability that the use is lawful. It says that the use would be materially different from the established agricultural and residential uses.
5. If the wedding use were to be de minimis, then no material change of use would be involved and the use would be lawful. The onus is on the appellant to provide evidence sufficient to establish an entitlement to a certificate of lawfulness.
6. No detailed evidence is provided for earlier authorised change of use of the steading. However, the appellant says that the buildings are unsuitable for modern agricultural

practice and claims that the steading has uses associated with woodland management, general storage, personal use, beekeeping, outdoor equipment, and occasional private functions. The council describes the established use of the site as agricultural/residential, with the four barns within the proposal being used for domestic use not agricultural use, notwithstanding the wedding use. The evidence is that the ownership of the land containing the steading is separate from the wider farmland. I observed one of the barns to contain a machine used for land management.

7. Given the above, whilst the barns may not be capable of accommodating modern agricultural equipment, some agricultural/land management use remains. It would be likely, on the balance of probability, that use associated with the adjacent house occurs within the steading. Therefore, notwithstanding the wedding use, I consider that the existing use would be agricultural/ancillary residential.

8. The wedding use is described as 'occasional' on the original application form, clarified through submissions as ten 'occasions' in a calendar year. That is the level of use which the council has assessed.

9. The evidence is that the wedding use can accommodate 135-140 guests, which would not clearly be an agricultural or ancillary residential use. A use does not have to occur across a whole year for it to be a material change from the existing use. Submissions say that weddings could occur year-round but are focused to the six months of April to September. I consider that six month period to be approximately 26 weeks. That would equate to a wedding every second or third week across the period, but could also be across consecutive weeks. Wedding use would occur across approximately three days per occasion. Such a turnover of weddings would preclude long term agricultural/ancillary residential use of the barns within that period as stored materials or equipment not required for wedding use would have to be removed on a frequent basis. In addition, access to the steading for the established use would be reduced if not precluded during the period booked for each wedding.

10. I use the barns' identity numbers as provided by the appellant. The bar I observed in barn 8 did not appear to be removable and there were multiple fridge/freezers there. While that and the seating stored in barn 9 could be used by residents, they would preclude agricultural use and reduce the potential for other ancillary residential uses of those barns. For the period October to March, the wedding use may be less significant and the steading may be more practically returned to the existing use. The appellant suggests the use could be controlled by a description of the use on a certificate of lawfulness as 'Use of the 4 barn areas identified on Drawing reference 'Floor Plans' for the purposes of an occasional wedding venue not to exceed 10 occasions in any calendar year.'. Despite these latter factors, I find that the overall reduction/preclusion of the existing use by the wedding occasions, in particular when largely focused within a six month period, would be significant and not de minimis.

11. I consider that effects and significance of the use on the location could be an indicator of whether a change of use has occurred. However the ability to control effects of the use are potential planning merits and are not relevant to my consideration of whether a change of use has occurred.

12. There is environmental noise in the area due to working of the land and this forms an acoustic background. I consider that noise related to a gathering of a significant number of people, which could occur frequently within the April to September period, would be materially different to the background noise. Such a difference in principle would not be

mitigated by the distance to, and intervening features between, the next nearest residential properties.

13. With regard to traffic, I observed the public road to the south east not to be the main road for vehicles travelling between Inverness and Cawdor. No detailed documentary evidence has been provided about the nature and volume of traffic using the track or the public road it takes access from. While there may be fluctuations in traffic and daily use by agricultural vehicles, the increase in vehicles related to the wedding day use in particular would, on the balance of probability, be significantly different to the volume of traffic routinely using the road and access track. There is no detailed evidence this would not occur frequently within the April to September period.

14. For the reasons above, I find the wedding use would, on the balance of probability, have a character significantly and materially different to the existing use of the steading, the wider residential and land management use of the area around the steading, and the existing agricultural/christmas tree related vehicle use of the access track and public road.

15. I am not persuaded by the case that the overall duration of the wedding use would be analogous to class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. That class is not about establishing lawful use, rather for the development it describes, it removes the requirement to seek planning permission.

16. Overall, I find that the wedding use would not be *de minimis*, would be a material change of use, and therefore would not be lawful.

17. The appellant suggests a description of the location that could be subject to a certificate of lawfulness as 'Barns 7, 8, 9 and 12, Balfreish Barns, Galcantray, Cawdor'. However, the evidence is that the use would extend into a variety of external spaces, which are not included in the proposed description, nor entirely included within the location plans provided. Therefore the appellant has not provided sufficient evidence of the extent of the land involved, notwithstanding the areas subject to the use were broadly identified to me during my site inspection and may be capable of description and mapping had I been minded to issue a certificate.

18. Furthermore I also note that section 154(3)(a) of the Act requires a certificate to be issued on appeal if the appeal decision maker is satisfied that the authority's refusal is not well-founded. In this case, I find that the appellant has not provided evidence sufficient to establish, on the balance of probability, that the use of the steading for occasional wedding use would be lawful. Accordingly I find that the authority's refusal is well-founded, and therefore conclude that the certificate should not be granted.

Simon Bonsall

Reporter