



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

Decision by Stephen Hall , a Reporter appointed by the Scottish Ministers

- Certificate of Lawful Use appeal reference: CLUD-270-2012
- Site address: Reduit House, Culloden Moor, Inverness, IV2 5EG
- Appeal by Horsepower Cars Inverness Ltd against the decision by Highland Council
- Application for certificate of lawful use 25/04621/CLE dated 2 December 2025 refused by notice dated 2 February 2026
- The subject of the application: Use of land for vehicle storage associated with vehicle dealing business
- Date of site visit by Reporter: 18 June 2026

Date of appeal decision: 16 September 2026

Decision

I allow the appeal in part and grant a certificate of lawful use in the terms set out in the certificate at the end of this notice.

Preliminary matter

The use for which the certificate was sought was described on the application form as being 'use of land for vehicle storage'. The council's report of handling and decision notice further refined this description to 'use of land for vehicle storage associated with vehicle dealing business'. The appellant's statement of appeal confirms that they are seeking a certificate of lawfulness for this latter description of use, and this is the form of words that I have therefore adopted in this decision.

Reasoning

1. This application for a certificate of lawful use under section 150(1) of the Act has been submitted on the basis that the use has existed at the site since at least 2 December 2015, and is thus now immune to enforcement action.
2. The evidence put forward in support of the application includes:
 - Invoices, including for car-related works addressed to the appellant trading as Horsepower Cars
 - A number of witness statements asserting the use of the land for the purpose of vehicle storage
 - A selection of photographs of vehicles on the appeal site
 - A selection of on-line customer reviews
 - Second hand car dealer licences
 - FCA and Office of Fair Trading documentation
 - Certificate of registration for VAT
 - Aerial photography from Google Earth

- Various invoices
- A message from Assessor Office

3. The reason given by the Council for the refusal of the application for the certificate is that the applicant has failed to provide sufficient evidence to satisfy it that, on the balance of probability, the existing use of vehicle storage/ sales has taken place on the existing parcel of land for a continuous period of ten years or more. It is further considered that the scale of the business has increased to such an extent that the existing business is considered to be materially different from that which existed prior to 2022.

4. Section 124(3) of the Act specifies that no enforcement action can be taken in respect of an unauthorised change of use (other than use as a single dwellinghouse) after the end of a period of ten years beginning with the date of the breach. The use must also have continued without interruption during the ten year period up to the date of the application. Therefore, in this case, in order for a certificate to be granted, I need to be satisfied that the land has been used continuously for vehicle storage since 2 December 2015.

5. The appeal site essentially consists of two parcels of land (and an access road). The northern parcel (currently known as Reduit Lodge, but formerly Reduit House) contains a dwellinghouse, stable range and areas of lawn and hardstanding. The southern parcel (now known as Reduit House) contains a dwellinghouse with large attached garage, a large drive-in shed, a rear yard and areas of lawn and hardstanding.

6. My site visit confirmed that parts of the site are currently in active use for the storage of motor vehicles for sale. Aerial images have been supplied showing the appeal site on various dates since December 2005. An image dated 18 April 2014 appears to show several cars (between five and ten) being stored on the northern land parcel. Although such photographs can only ever represent a snapshot in time, this level of car storage would appear to go beyond what would normally be associated with a domestic dwelling. Witness statements, a VAT registration document, photographs taken from the Horsepower Cars website/ social media account, customer reviews and other documentation all attest to a car dealing business having been operational from this vicinity in late 2015 and consistently since that date. The council accepts that this is the case. Overall, I am therefore satisfied that this use has been operating continuously from this general area for at least ten years.

7. The main focus for the business now appears to be the southern parcel of land, whereas the historic aerial photography indicates that, prior to around 2021, the business had been focussed on the northern parcel. Despite being apparently in the same ownership, I consider the northern and southern parcels of land to be two separate planning units. They are occupied by separate residential dwellings and the boundary between the two parcels is clearly delineated on the ground by a wooden fence. When considering established use rights, it is necessary for me to consider these individual planning units separately. The use of one parcel of land for a use does not confer any established use rights on the other parcel.

8. Dealing first with the southern plot. Aerial photographs demonstrate this was a grass field until the development of the building currently known as Reduit House commenced around 2020. Significant use of this piece of land for the storage of vehicles does not appear to have commenced until around 2022 at the earliest.

9. The appellant argues that there was some use prior to this date, in particular of the bellmouth field access point, and points to ground markings visible in aerial photographs of

2018 and 2019. While I do not rule out the possibility that cars were stored on parts of the southern plot at some points prior to 2022, none are visible in the submitted photographs. While the submitted witness statements do indicate the use of this southern parcel for vehicle storage within the last ten years, and the use of the wider area for at least ten years, they do not satisfy me that the southern parcel itself has been used since 2015. I therefore consider, on the balance of probability, that any such use of the southern land parcel for the storage of vehicles prior to 2022 (if it occurred at all) was likely to be occasional, limited in extent, and incidental to the principal use of this land. The 'essential character' of this land (to use the appellant's terminology) in this period appears to have been as an open unoccupied grass field.

10. I conclude that, on the balance of probability, the use of this southern parcel of land for vehicle storage commenced after 2021, and that the use is not therefore lawful and a certificate should not be issued in relation to this part of the appeal site.

11. Turning to the northern land parcel, there is no dispute that vehicles were stored here commercially as far back as 2015. This is clear from the aerial photography and other evidence and is not disputed by the council. The principal question in this case is whether this use lapsed around 2023 when car storage appears to have largely shifted to the southern plot.

12. The supplied aerial photographs show limited vehicle parking (consistent with its use as a domestic dwelling) from May 2023, though I acknowledge these are only snapshots in time and that vehicle stocks may inevitably go up and down over time. At my site visit I observed cars being stored on this land. However, I note that the appellant was aware of the date of my site visit and may have moved cars from their normal locations. I have therefore placed little reliance on the positioning of cars at the time of my site visit.

13. Numbers of photographs have been submitted, largely taken from the business's website or social media pages, some of which purportedly show cars for sale located in the northern area after 2023. Given that these images inevitably focus on the cars, it is often impossible to tell the location of the photograph with any level of precision. However, a number of the photographs included as part of the appellant's commentary on the council's response (within 'Appendix 24') do clearly show a number of cars in the northern area with stated dates through 2023, 2024 and 2025. While it is not straightforward for me to verify these dates, or whether these are cars for sale or for the personal use of the appellant, I nevertheless consider these photographs do appear to demonstrate some ongoing use of the northern area in connection with the car sales business over this period.

14. I must consider whether the earlier use of this northern parcel can be considered to have lapsed since 2023. I have noted above that while this area appears to have been used much less intensively for car storage and sales in recent years, there is some evidence of ongoing, if sporadic, use. It does not appear that the appellant has made any physical change to the northern parcel since 2023 such as would indicate any intention to cease the car storage use. The main building on the site is currently being used as a dwelling house, but it appears this was equally the case before 2023. Therefore I do not consider any other alternative use to have intervened. I am also conscious of the relatively short period of time that has elapsed since this land was apparently the main focus for vehicle storage on the appellant's landholding.

15. Overall, and on for these reasons, I therefore conclude that, on the balance of probability, the use of the northern land parcel commenced more than ten years before the

date of the application for the certificate, and has continued since then, without abandonment.

16. The council also argues that the scale and intensity of the use has intensified to the point of representing a material change of use from any less intense use that may have existed ten years ago.

17. The sale and display of motor vehicles does not fall within any defined use class, and therefore an intensification of this use could theoretically constitute a material change of use. The supplied aerial photographs do indicate a significant increase in the numbers of cars being stored across the whole of the appeal site (the northern and southern land parcels combined). However, in recent years at least the vast majority of cars have been stored in the southern parcel. I have already concluded that the use of this land for car storage is not lawful. As regards the northern parcel, the numbers of cars being stored in this area appears limited, and potentially of the same or lesser scale than was the case in the 2015 – 2022 period. I therefore conclude that there has been no intensification of use in this area sufficient to constitute any material change in the use of this land.

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 have concluded that the use of the southern land parcel for vehicle storage is not lawful, but that the use of the northern land parcel for this use is lawful. Accordingly I find that the authority's refusal is not well-founded with regard to the northern parcel, and therefore conclude that the certificate should be granted in relation to this area only.

19. Nothing in this decision is intended to constitute any opinion on the desirability or otherwise of this use, or as to whether any application for planning permission should be approved or dismissed.

Stephen Hall
Reporter



Certificate of Lawful Use or Development

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 150 The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 Regulation 44(6)

I hereby certify that on 2 December 2025 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged green on the plan attached to this certificate was lawful within the meaning of section 150 of the Town and Country Planning (Scotland) Act 1997, for the following reason(s):

- the use of the land commenced more than ten years before the date of the application for the certificate, and has continued since then, without abandonment

Stephen Hall
Reporter

Date: «Yourref»

First Schedule Use of land for vehicle storage associated with vehicle dealing business

Second Schedule Reduit Lodge, Culloden Moor, Inverness, IV2 5EG

Notes

1. This certificate is issued solely for the purpose of section 150 of the Town and Country Planning (Scotland) Act 1997.
2. It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the specified date and, thus, was not liable to enforcement action under section 127 of the 1997 Act on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

