



Lawful Development Certificates

For the purpose of this advice, the term Lawful Development Certificate (**LDC**) is used. However, confusingly these are also sometimes referred to as Certificates of Lawful Development or Certificates of Lawfulness of Existing Use or Development (**CLEUD**).

You can apply for an LDC if:

- (i) your flying activity has continued, at a similar level, and of a similar nature without a break for at least ten years (known as the “ten year rule”). Recent case law suggests that this ten year period may not need to be up to the present day (i.e. not currently subsisting). Further professional advice is essential should you wish to pursue that argument. The operation may have built up over a longer period but provided you can prove ten years at a certain level, that should normally be sufficient. Please note that, as use of a site for 28 days per annum or less is “permitted development”, the “ten year rule” applies only when the use exceeds that number of days, and;
- (ii) the site has not been the subject of an Enforcement Notice which came into effect, and;
- (iii) you can prove a continuous level of use by reference to documentary evidence. LDCs need to be very well documented and severe penalties apply for false declarations.

If you feel you meet the above criteria you will need to obtain forms from your Local Planning Authority (**LPA**) and follow the instructions. A helpful booklet should also be available from your LPA. An application fee will be payable upon submission. Provide as much supporting documentation as you can. If you find more during the processing of the application do submit this. The LPA may refuse to grant an LDC if insufficient evidence is supplied but this does not preclude you from trying again in the future if more information becomes available.



Information can be found through the following:

- movement records/logs.
- pilots' logbooks.
- pilots' statements/Statutory Declarations.
- local residents' statements/Statutory Declarations (obviously only supportive residents will oblige).
- the Council's own files such as rating records* (although they would not give any information on the level of operation).
- newspaper cuttings or other articles.
- invoices and receipts etc.

* Please be aware that, if the site has not been rated in the past, the granting of a Lawful Development Certificate could lead to back payment of rates due in previous years.

Unlike a planning application, the LPA should not consider the merits of the case. Even if there are policy presumptions against the operation they are not relevant. Consultations may be undertaken, but only on the basis of corroborating evidence. If there is conflicting evidence you should be given the opportunity to resolve the matter.

Assuming that sufficient evidence is supplied to enable an LDC to be granted, the LPA may impose limitations upon this, but cannot condition the operation, beyond its current operating limits. For example, in a case where there has never been any helicopter activity this limitation would continue. The most difficult area of negotiation usually relates to numbers/days of movements, where specialist advice and skilled negotiation may be necessary.