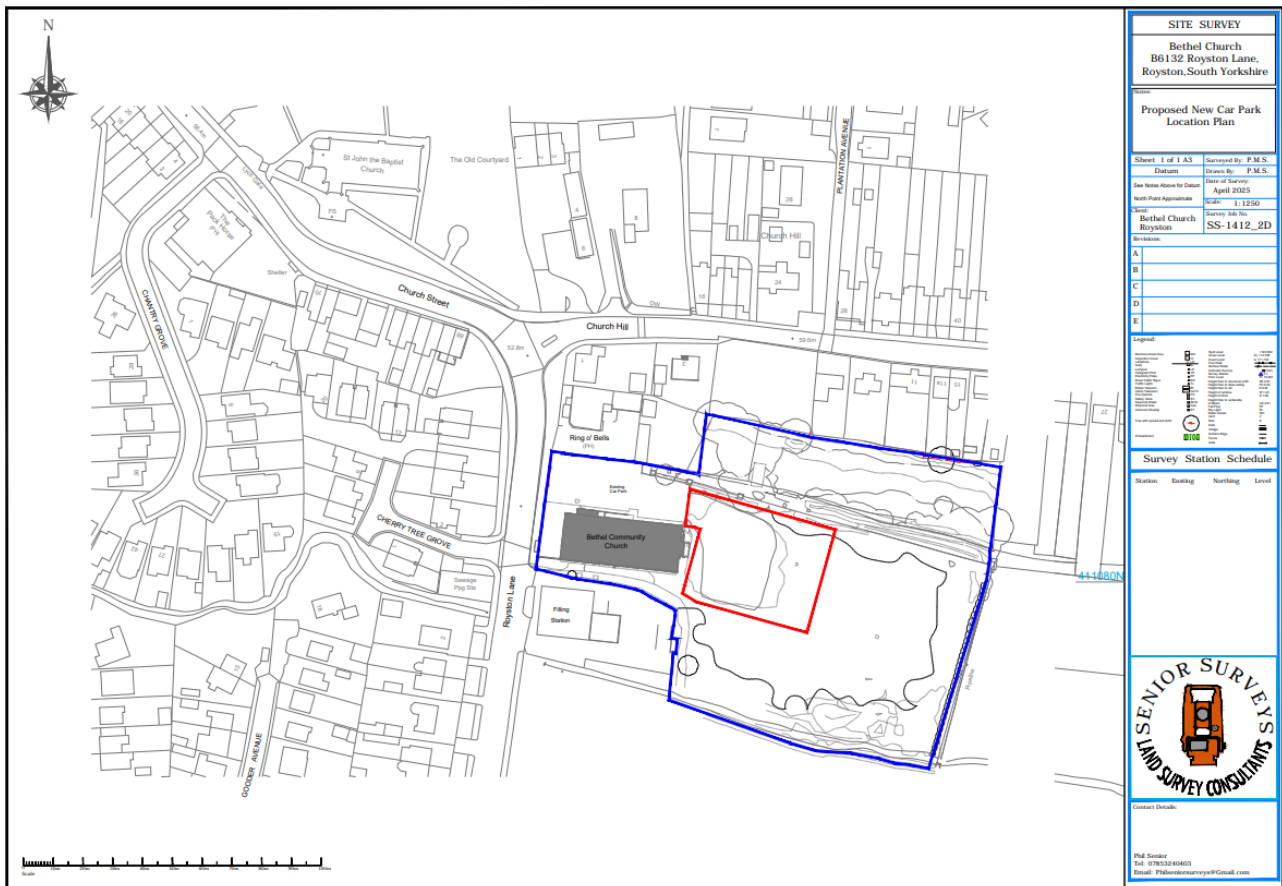


Application Reference Number:	2025/0189		
Application Type:	Lawful Development Certificate – Existing.		
Proposal Description:	Lawful Development Certificate for an existing use of land as a car park.		
Location:	Bethel Community Church, Royston Lane, Royston, Barnsley, S71 4NJ.		
Applicant:	Mr David Jones (Bethel Community Church).		
Third-party representations:	None.	Parish:	
		Ward:	Royston.

Site Description

This application relates to land to the rear of Bethel Community Church. The building is located on the west side of Royston Lane, opposite Cherry Tree Grove and in-between Ring O' Bells public house to the north and Total Energies filling station to the south. The application site is roughly rectangular in shape and lies to the east (rear) of the building and is bounded by brick walls to the west and north, timber fencing to the south and mixed vegetation elsewhere. Access is taken from the north-west corner of the application site off Royston Lane. The building is abutted by large areas of hard surfacing to the west and north. To the rear (east) is further hard surfacing which has worn away in areas and become overgrown with vegetation.



Planning History

There are several planning applications associated with the development site. However, the most relevant application is:

B/85/0875/RO	Change of use from ballroom and restaurant to place of worship.	Approved.
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Proposed Development

This application is for a lawful development certificate (LDC) under Section 191 of the Town and Country Planning Act 1990. A certificate under this section can be sought if any person wishes to ascertain whether –

- a) any existing use of buildings or other land is lawful;
- b) any operations which have been carried out in, on, over or under land are lawful; or
- c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful.

In this instance, the applicant has applied for a LDC under Section 191 and seeks confirmation that the existing use of land to the east of Bethel Community Church, Royston Lane, Royston, Barnsley, S71 4NJ as a car park is lawful and does not require planning permission.

Submitted information states that the original surfacing of the car park has worn away due to constant use. It is stated that the car park was also damaged by unauthorized use by other heavy goods vehicles routinely coming onto the property. It is stated that most of the existing car park has now become unusable during wet weather due to the pooling of water in the potholes and build-up of dirt and sludge, and in its current state, the car park is no longer accessible for disabled parking or for visitors with mobility problems.

The applicant has indicated the intention of the church to resurface the existing car park to a higher standard, enabling more cars to be parked properly and orderly. It is stated that such resurfacing would provide users with a facility that can be managed properly by the church, without the need for visitors to leave their vehicles on the streets outside the church.

Provided that the re-surfacing materials would be similar, and the existing size, layout and drainage of the existing car park would not be altered, the proposed re-surfacing work is unlikely to require planning permission. However, given that the applicant has applied for a LDC under Section 191 and seeks confirmation that the existing use of land to the east of Bethel Community Church, Royston Lane, Royston, Barnsley, S71 4NJ as a car park is lawful and does not require planning permission, the proposed re-surfacing work is not under consideration under this LDC application. The applicant may wish to apply separately regarding this matter.

Relevant Policies

Section 191(1) of the Town and Country Planning Act 1990 states that if any person wishes to ascertain whether any existing use or operations which have been carried out in, on, over or under land, would be lawful, they may make an application for the purpose to the local planning authority describing the use, operations or other matter in question.

Section 191(4) of the Town and Country Planning Act 1990 states that 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, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case shall refuse the application.

Guidance states that if a local planning authority has no evidence of its own, or 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 the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

This reflects the ministerial advice that was formerly printed in Annex 8 to Circular 10/97, at paragraph 8.15. 'Evidence' from neighbours, or others objecting to the application, consisting of no more than doubt, disbelief or scepticism regarding the evidence adduced by the applicant does not amount to evidence contradicting or otherwise making the applicant's evidence less than probable.

A full award of costs is liable to be made on appeal under Section 195 of the Town and Country Planning Act 1990 against a local planning authority which refuses a certificate of lawfulness in ignorance or defiance of the rule in *Gabbittas*.

Paragraph 1(a) of Section 171B of the Town and Country Planning Act 1990 (as amended) states that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of— in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed. As such, it should be assessed whether the stated existing use of land is lawful within the remit of Section 171B of the Town and Country Planning Act 1990 (as amended). If it is established that the ten-year threshold has been met, the local planning authority (LPA) would not be entitled to take enforcement action in respect of the potential breach and the existing use would be rendered lawful.

Consultations

There is no statutory requirement for LPAs to consult third parties, including neighbouring residents or parish councils on a lawful development certificate application as such applications are a matter of fact and law and are not determined on their planning merits or judged against national or local planning policies or guidance. Nevertheless, this application was advertised on the Council website, and no representations were received.

Legal	<i>No comments received.</i>
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Planning Assessment

The applicant has applied for a LDC under Section 191 and seeks confirmation that the existing use of land to the east of Bethel Community Church, Royston Lane, Royston, Barnsley, S71 4NJ as a car park is lawful and does not require planning permission.

Paragraph 1(a) of Section 171B of the Town and Country Planning Act 1990 (as amended) states that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of — in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed. As such, it should be assessed whether the stated existing use of land is lawful within the remit of Section 171B of the Town and Country Planning Act 1990 (as amended). If it is established that the ten-year threshold has been met, the local planning authority (LPA) would not be entitled to take enforcement action in respect of the potential breach and the existing use would be rendered lawful.

In this instance, the application is supported by a Solicitors letter dated 10th September 1996 detailing an agreement between Bethel Church and the trustees of the Tom Harniess trust – owners of the adjoining land, for the continued use of all or part of the land as an additional car parking area. The application is also supported by five statements of fact signed by local residents confirming their attendance of Bethel Community Church since 1996 and that during that time, the land in question has been used as a car park. However, these are not professional legal

documents and are therefore attribute limited weight in this case. Photographs of the land being used as a car park have also been provided. A site visit was undertaken on 29th June 2025 which corroborates the photographs provided. Historic and current aerial photography dated from 2002 – present also shows that the land in question has been and is hard surfaced, although worn in areas, with some car parking.

Considering the above, it is reasonable to conclude that the existing use of the land in question as a car park does exceed the ten-year threshold in which planning enforcement action can be taken and is therefore rendered lawful.

Guidance states that if a local planning authority has no evidence of its own, or 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 the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

To conclude, the LPA has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable and therefore, on the balance of probability, the LPA is provided with information satisfying them that the existing use or operations described in the application are lawful and a certificate should be granted.

RECOMMENDATION: Lawful development certificate – Grant.