

NYMNPA

21/05/2019

16 May 2019

Planning Statement - Application for Lawful Development Certificate

For: Mrs L Foster

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Table of revisions

Rev/version no.	Date	Amendment details	Revision prepared by

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1.0 Introduction

- 1.1 Cheryl Ward Planning has been instructed to submit an application for a Certificate of Existing Lawful Use Development (CELUD) with respect to the design of the River Hut as constructed. The site is outlined in red on the attached location plan at Egton Manor, Barnards Road, Egton, Whitby, YO21 1UY.
- 1.2 In brief, the floor layout includes an additional rear element which includes a store, toilet, shower facility and flue which was erected 6 months after the cabin was originally constructed.
- 1.3 The application is supported with evidence to show that building works to install these facilities were substantially completed and have been in situ for a period in excess of 10 + years before the date of the application.
- 1.4 The Statement demonstrates that the breach of planning control through a change to the design of the structure which includes external alterations to house a store, toilet and shower (at the rear only) are immune from enforcement action and on these grounds a lawful development certificate should be granted.
- 1.5 The CELUD has come about because a separate planning application is currently under consideration by the NYM National Park Authority which seeks to vary the use of the summer house with a flexible use that would facilitate overnight accommodation. The cabin is an existing building within the grounds of Egton Manor and would continue to be used for domestic purposes ancillary to the enjoyment of the main house. It is confirmed the summerhouse has been in situ since 2004.
- 1.6 The accompanying plans identify the floor layout and elevations as originally approved and an up to date plan of the current arrangement.
- 1.7 This Statement is prepared by Cheryl Ward Planning who holds an MSc in Town Planning and is a Chartered Member of the Royal Town Planning RTPI) and associated ICN and PERN networks.

2.0 Planning History

- 2.1 A search of the NYM National Park Authority's online search facility has revealed the sites planning history.

NYM/2004/0515/FL – Construction of a summer house (retrospective) at Egton Manor – Approve.

Given that the original submission was a retrospective application no condition relating to building in accordance with the approved plans could have been imposed. Consequently, there is not a suitable condition to vary in terms of the design.

3.0 The Site

Site context and surroundings

- 3.1 Egton Manor is located six miles from Whitby. The Manor House is situated in the lower part of Egton Bridge between the Esk Valley Railway and north of the River Esk on Barnard's Road.
- 3.2 For planning purposes the application site falls within the North York Moors National Parks planning jurisdiction and is deemed to be within the open countryside.
- 3.3 Egton Manor is a Grade II listed building and primary residence. The Estate is managed and run by the occupants of Egton Manor which has been in the same family since 1869.
- 3.4 The site falls within the Egton Bridge Conservation Area, one of 42 in the National Park.



Fig 1. – Egton Manor and position of summerhouse within trees above the River Esk

- 3.5 The area is surrounded by well established, attractive trees which add to the patina and local the characteristics of the area. These special features form the local landscape and are used to form an appreciation of setting that is proportionate to the significance of Egton Manor as a whole. The site is not overlooked.

Access

- 3.6 Access to the site is via the Manor House's principal access from Barnard's Road to the North of the main house.
- 3.7 The cabin is accessed by foot through the wooded garden or via the front gardens via the tennis court.
- 3.8 The cabin has been in use since it was first constructed in 2004 in conjunction with the use of the property as a dwelling.



Fig 2. – extend of works sought under CELUD to left of red line

4.0 Assessment – Describing the works

- 4.1 The Foster family have occupied Egton Manor continuously for the last 45 years. Mr & Mrs Foster senior obtained retrospective planning consent for the cabin in 2004. In its current form the Local Planning Authority have flagged up discrepancies between the approved plans and the cabin in situ.
- 4.2 The cabin is well established and forms part of the woodland and its setting and has done for a continuous period for over 10 + years. It is a relatively modest unimposing structure within the wooded area.
- 4.3 There is no other property in close proximity.



Fig 3. – front elevation of the 15 year + cabin

- 4.4 It is with regret that Mr & Mrs Foster senior who previously occupied Egton Manor are not able to verify the works for themselves or that they instructed the works to take place in 2004 and 2005.
- 4.5 Evidence is therefore relied upon from the builder who was appointed to erect the original building in 2004 and was asked to return 6 months later to construct the toilet area and store (Shamrock Sheds).
- 4.6 Mrs Nicky Jack, daughter of Mr & Mrs Foster senior who resided at Egton Manor with her parents can recall the cabin being built and the subsequent parts that were added some six months later and is able to verify this to be the case.

- 4.7 The current occupiers of Egton Manor, Mr O Foster junior and his wife Mrs L Foster can verify the structure being in situ in its current form together with the flue for a period in excess of 10 years or more.
- 4.8 Cheryl Ward Planning act on behalf of Mr & Mrs O Foster to ascertain a Lawful Development Certificate to regularise the design, form and construction of the cabin in its current form.

Summary of Evidence

- 4.9 The evidence in support of the Lawful Development Certificate application comprises:
- Sworn statement from the builder (Shamrock Sheds) – **Appendix 1**
 - Sworn statement from Mrs N Jack – former resident of Egton Manor – **Appendix 2**
 - Sworn statement from O & L Foster – current occupiers of Egton Manor – **Appendix 3**
 - **Fig 1.** above photograph of the site and small rear addition

Design

- 4.10 An examination of the structure reveals the following:
- The additional floor area is a small amount of development which equates to approximately 7.5 sqm.
 - Development is at the rear and is not visible to members of the public.
 - A flue was erected at the same time for a small log burning stove.
 - Woodwork has weathered at a similar rate to the rest of the cabin.
 - Materials are the same as that in the main body of the cabin.

5.0 Analysis

- 5.1 The 1991 Act amended the 1990 Act by substituting new ss 191 to 194. Sub-section (1) of s 191 provides that if any person wishes to ascertain whether any existing use of buildings or other land is lawful; any operations which have been carried out in, on, over or under land are lawful; or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful; he may apply to the local planning authority specifying the land and describing the use, operations or other matter.
- 5.2 In this case the applicant wishes to prove the lawfulness of the development which took place some 10 + years ago. The applicant acknowledges that the relevant test of proving the lawfulness of existing development rests with them.
- 5.3 The Courts have held that the applicant's own evidence does not need to be corroborated by 'independent' evidence in order to be accepted. In this case have been able to contact the builder who constructed the original cabin and returned some 6 months later to erect the rear store, toilet and shower facilities.
- 5.4 The Authority's aerial photography is likely to corroborate the evidence is sufficiently precise and unambiguous to justify the grant of approval of the Certificate.
- 5.5 The available evidence provides a proportionate yet detailed account of what is considered to be a modest amount of development that has taken place.

6.0 Conclusion

- 6.1 On the basis of the evidence included as part of the application, it is submitted that the breach of planning control, through the small scale additions to the existing 'approved' cabin were substantially complete more than 10 years before the date of this application. As such these works are therefore immune from enforcement action.
- 6.2 It is therefore submitted that the available evidence clearly supports the applicants claims regarding the timing of the building work and that the building works equates to a modest amount of floor space and the addition of a working flue.
- 6.3 The relevant test relating to the balance of probability is therefore satisfied and we would invite the Authority to approve the application for a Lawful Development Certificate with immediate effect.

Cheryl Ward Planning

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APPENDIX 1 – Shamrock Sheds

RIVER HUT, EGTON MANOR – CERTIFICATE OF EXISTING LAWFUL USE
DEVELOPMENT

NYMNPA

21/05/2019



Shamrock sheds



Shamrock Sheds
Baugh Road
Kirbymisperton, Malton
YO17 6UU

To whom it may concern,

I Cyril Dougherty from Shamrock Sheds erected the building in 2004. Approximately 22ft x 16ft, with a 10ft decking area. 6 Months after the original build, we then built on approximately 13ft 10in x 5ft hand basin/ toilet area. The owner of the land at the time where the building was erected was a lady named Julia Foster.

Yours Sincerely

Mr Cyril Dougherty

Egton Manor
Egton Bridge
Whitby
North Yorkshire
YO21 1UY

23/04/19

NYMNPA

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To whom it may concern,

I, Laura Foster, can confirm I first saw the River hut in 2009 where there was a bathroom attached to the back of the hut.

My husband Olly Foster, whose family home it is, can confirm that the hut with the addition of the bathroom has been in situ since 2004.

Yours Faithfully

Oliver and Laura Foster

APPENDIX 2 – Mrs N Jack

**RIVER HUT, EGTON MANOR – CERTIFICATE OF EXISTING LAWFUL USE
DEVELOPMENT**

NYMNPA

21/05/2019

Mrs Nicky Jack
35 Silverton Road
London
W6 9NY

2nd April 2019

To whoever it may concern,

I understand that my Brother and sister in law are trying to get planning permission for their River Hut.

I am writing to confirm that the bathroom was purposely installed around the same time of the building of the shed. It has been there over ten years.

Yours sincerely

Nicky Jack

APPENDIX 3 – O & L Foster

**RIVER HUT, EGTON MANOR – CERTIFICATE OF EXISTING LAWFUL USE
DEVELOPMENT**

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