



Sanderson
Weatherall

30 Queen Square
Bristol
BS1 4ND

Our Ref: 192670/ABP/OP

J. Bastow, Senior Planning Officer
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York, Y62 5BP

NYMNP

24/06/2020

22 June 2020

Dear Mrs Bastow,

APPLICATION FOR LAWFUL DEVELOPMENT CERTIFICATE FOR AN EXISTING USE, NAMELY, STORAGE OF SHIPPING CONTAINER AND LORRY TRAILER AT PADDOCK TO SOUTH OF WYKE LODGE, HODGSON HILL, STAINTONDALE – PLANNING PORTAL REF. 08825749

I am pleased to confirm that on behalf of my client, Keith Dobbie, I have submitted the above application via the Planning Portal. The application comprises the following formal documentation and supporting material:

- Completed Application Form;
- Application Fee of £462.00 – this will be paid shortly;
- This Cover Letter;
- Site Location Plan;
- Annotated Site Plan;
- Supporting Statement; and,
- CIL Questions.

I trust the application will be validated at your earliest convenience.

In the meantime, please do not hesitate to contact me should you require any further information or clarification.

Yours sincerely,

Owen Pike BA (Hons) PG Dip MRTPI
Associate Partner, Planning
For and behalf of Sanderson Weatherall LLP

Sanderson Weatherall LLP.
Registered in England Company Number OC 344 770
Registered Office 6th Floor Central Square, 29 Wellington Street, Leeds, LS1 4DL
VAT Number 945 6744 83
Regulated by RICS



FS 632568 EMS 632569 OHS 632570

NYMNPA

24/06/2020

Supporting Statement

Paddock to South of Wyke Lodge
Hodgson Hill
Staintondale

22 June 2020

Application for Lawful Development Certificate for
Existing Use of Property for Storage of Shipping
Container and Lorry Trailer

Applicant: Keith Dobbie



Sanderson
Weatherall

Contents

- 1. Introduction 2
- 2. Application Site Location and Description 2
- 3. Planning History..... 2
- 4. Legislative Framework 3
- 5. The Supporting Case and Evidence..... 3
- 6. Conclusions 6
- 8. Appendices..... 7

1. Introduction

- 1.1. This Statement is in support of an application submitted on behalf of Keith Dobbie (hereafter ‘the applicant’) to the North York Moors National Park Authority in respect of the application site at Paddock South of Wyke Lodge, Hodgson Hill, Staintondale (hereafter ‘the application site’).
- 1.2. The application is made under Section 191 of the Town and Country Planning Act 1990 (as amended) and seeks a Lawful Development Certificate for Existing Use of the application site for storage of a shipping container and lorry trailer. The shipping container and lorry trailer are which this application relates are clearly highlighted on the submitted Annotated Site Plan.
- 1.3. The evidence submitted with this application demonstrates that, on the balance of probability, the site has been used continuously for the storage of a shipping container and lorry trailer since 2004 to the present day.

2. Application Site Location and Description

- 2.1. The application site is located approximately 2.9km north of Cloughton on the east side of Hodgson Hill with woodland to the north, east and south. On the north side of the adjoining woodland is a field containing the applicant’s holiday chalet. The application site is in proximity to several third-party residential properties, as shown on the submitted Location Plan. Bridge Cottage is approximately 112m to the north-east of the application site beyond the applicant’s holiday chalet. Wyke Lodge and Wyke Lodge Cottage are approximately 129m and 103m, respectively, to the north-west with woodland and the applicant’s holiday chalet in between.
- 2.2. The application site comprises a paddock which is used for sheep grazing and for storage of a shipping container and lorry trailer, as shown on the submitted Annotated Site Plan.

3. Planning History

- 3.1. There is no known planning history at the application site.

4. Legislative Framework

Town and Country Planning Act 1990

- 4.1. Section 191(1) of the 1990 Act enables anyone to apply to the Local Planning Authority for a decision whether a specified existing use which has already been carried out on land, is lawful for planning purposes.
- 4.2. Subsection (4) of Section 191 provides that if the Local Planning Authority is provided with information satisfying them of the lawfulness, at the time of the application, they shall issue a certificate to that effect.
- 4.3. The Courts have held that the relevant test of evidence on such matters is *“the balance of probability”*. As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a Local Planning Authority should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely *“beyond reasonable doubt”*. Moreover, the Court has held (F W Gabbitas v SSE and Newham LBC [1985]) that the applicant’s own evidence does not need to be corroborated by *“independent”* evidence in order to be accepted. If the Local Planning Authority has no evidence of their 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 alone is sufficiently precise and unambiguous to justify the grant of a certificate *“on the balance of probability”*.
- 4.4. In this particular case the onus is on the applicant to demonstrate that *“on the balance of probability”* the application site listed above and identified on the submitted plans has been used for storage of a shipping container and lorry trailer for the appropriate time which in this instance is 10 years (Ref: Town and Country Planning Act 1990 Section 171B (2)).

5. The Supporting Case and Evidence

- 5.1. The evidence in respect of the application site is summarised below and overleaf. **Please note, some of these documents bear personal information including signatures which, for security purposes, the local authority is respectfully requested to obscure when they are placed on the public files and uploaded onto the Council’s website.**
- 5.2. A signed and dated Statutory Declaration has been prepared by the applicant stating that before he occupied and acquired the application site, it was already used for the storage of a shipping container and lorry trailer. It also states that the shipping container has been in the same location

since 2004 and has also been used in the same way since 1 April 2004 to the present day, specifically, as a store and shelter for ewes during lambing season. Furthermore, the Statutory Declaration confirms the lorry trailer has been in the same location since 2007 and has also been used in the same way since 1 April 2014 to the present day, specifically, as a store and workshop by the applicant, and before this it was used as a workshop/store/shelter by a local joiner (**Appendix 1** refers).

5.3. A signed and dated Statutory Declaration has been prepared by a sheep farmer, general builder and local resident (Montague Burton) who has used the shipping container on a continual basis as a store and shelter for ewes during the lambing season since 2004 to the present day. It also states that a lorry trailer arrived on the application site in 2007 after which it began to be used as a workshop/store/shelter by a joiner from Whitby (**Appendix 2** refers).

5.4. Photographs x5 show the shipping container and lorry trailer at the application site (**Appendix 3** refers).

5.5. The shipping container is shown on the following plans:

- Existing Site Location Plan (Dwg. No. KYN014021-10-RevB) – this was submitted to the North York Moors National Park Authority (NYMNP) as part of an application for a Lawful Development Certificate (App. Ref. NYM/2015/0535/CLE) for a touring caravan, which was issued on 13 October 2015 (**Appendix 4** refers);
- Existing Site Layout (Dwg. No. KYN014021-11-RevB) – this was submitted to the North York Moors National Park Authority (NYMNP) as part of an application for a Lawful Development Certificate (App. Ref. NYM/2015/0535/CLE) for a touring caravan, which was issued on 13 October 2015 (**Appendix 5** refers);
- Proposed Site Layout (Dwg. No. KYN014021-03-RevI) – this is one of the approved plans for the change of use planning permission from the siting of a touring caravan to the siting of a log cabin/chalet/mobile home (App. Ref. NYM/2015/0885/FUL), which was allowed at appeal on 2 August 2017 (**Appendix 6** refers);
- Site Location Plan (Dwg. No. KYN014021-20-RevC) – this is one of the approved plans for the change of use planning permission from the siting of a touring caravan to the siting of a log cabin/chalet/mobile home (App. Ref. NYM/2015/0885/FUL), which was allowed at appeal on 2 August 2017 (**Appendix 7** refers);

- Proposed Landscape Layout (Dwg. No. KYN014021-03-03-RevK) – this is one of the approved plans for a condition discharge application (App. Ref. NYM/2018/0258/CVC), which was approved on 1 August 2018 (**Appendix 8** refers); and,
 - Site Location Plan (Dwg. No. KYN014020-20-RevG) – this is one of the approved plans for a variation of condition application (App. Ref. NYM/2020/0022/FL), which was approved on 10 March 2020 (**Appendix 9** refers).
- 5.6. The Council did not question the lawfulness of the shipping container during the determination of any of these applications, which suggests the authority was content with its siting on the application site.
- 5.7. The lorry trailer is also shown on the following plans:
- Existing Site Location Plan (Dwg. No. KYN014021-10-RevB) – this was submitted to the North York Moors National Park Authority (NYMNPA) as part of an application for a Lawful Development Certificate (App. Ref. NYM/2015/0535/CLE) for a touring caravan, which was issued on 13 October 2015 (**Appendix 4** refers);
 - Site Location Plan (Dwg. No. KYN014021-20-RevC) – this is one of the approved plans for the change of use planning permission from the siting of a touring caravan to the siting of a log cabin/chalet/mobile home (App. Ref. NYM/2015/0885/FUL), which was allowed at appeal on 2 August 2017 (**Appendix 7** refers); and,
 - Site Location Plan (Dwg. No. KYN014020-20-RevG) – this is one of the approved plans for a variation of condition application (App. Ref. NYM/2020/0022/FL), which was approved on 10 March 2020 (**Appendix 9** refers).
- 5.8. Part of the lorry trailer is shown on the following plan:
- Proposed Landscape Layout (Dwg. No. KYN014021-03-03-RevK) – this is one of the approved plans for a condition discharge application (App. Ref. NYM/2018/0258/CVC), which was approved on 1 August 2018 (**Appendix 8** refers).
- 5.9. The Council did not question the lawfulness of the lorry trailer during the determination of any of these applications, which suggests the authority was content with its siting on the application site.
- Summary**
- 5.10. This application seeks lawful recognition of an existing use that has been in existence, continuously for more than 10 years. The statutory declarations, photographs and approved plans confirm the situation and there is no evidence to suggest why a certificate of lawfulness cannot be granted.

6. Conclusions

- 6.1. The application seeks a Lawful Development Certificate for existing use of the application site for storage of a shipping container and lorry trailer under Section 191(1) of the 1990 Act. In determining such applications, the relevant test is on “*the balance of probability*”, having regard to the evidence presented.
- 6.2. The evidence accompanying this Statement demonstrates that on “*the balance of probability*”, the application site has been used for storage of a shipping container and lorry trailer in excess of 10 years to the present day. The evidence includes the following:
- Statutory Declarations;
 - Photographs; and,
 - Approved Plans.
- 6.3. Therefore, on the basis of the evidence submitted and for the reasons stated above, it is considered that the lawful use of the application site is for storage of a shipping container and lorry trailer and a Lawful Development Certificate to that effect should be granted.

8. Appendices

- Appendix 1 - Keith Dobbie's Statutory Declaration**
- Appendix 2 - Montague Burton's Statutory Declaration**
- Appendix 3 - Photographs**
- Appendix 4 - Touring Caravan Lawful Development Certificate Existing Site Location Plan**
- Appendix 5 - Touring Caravan Lawful Development Certificate Existing Site Layout**
- Appendix 6 - Log Cabin/Chalet/Mobile Home Proposed Site Layout**
- Appendix 7 - Log Cabin/Chalet/Mobile Home Site Location Plan**
- Appendix 8 - Condition Discharge Application Proposed Landscape Layout**
- Appendix 9 - Variation of Condition Application Site Location Plan**

Appendix 1 – Keith Dobbie’s Statutory Declaration



Appendix 2 – Montague Burton’s Statutory Declaration



Appendix 3 – Photographs



Photograph 1 – Shipping container and lorry trailer



Photograph 2 – Lorry trailer



Photograph 3 – Shipping container from lorry trailer



Photograph 4 – Lorry trailer from site entrance



Photograph 5 – Lorry trailer from adjacent road (Hodgson Hill)

Appendix 4 - Touring Caravan Lawful Development Certificate Existing Site Location Plan



Appendix 5 – Touring Caravan Lawful Development Certificate Existing Site Layout



Appendix 6 – Log Cabin/Chalet/Mobile Home Proposed Site Layout



Appendix 7 – Log Cabin/Chalet/Mobile Home Site Location Plan



Appendix 8 - Condition Discharge Application Proposed Landscape Layout



Appendix 9 – Variation of Condition Application Site Location Plan



sw.co.uk



FS 632568 EMS 632569 OHS 632570

Sanderson Weatherall LLP, Registered in England Company Number OC 344 770
Registered Office 25 Wellington Street Leeds LS1 4WG VAT Number 945 6744 83