

# North York Moors National Park Authority

## Delegated decision report

**Application reference number:** NYM/2023/0327

**Development description:** certificate of lawfulness for the erection of a building more than four years ago and use as a stable block in excess of ten years

**Site address:** Acklam Field located east of Newholm Village, Cliff Lane, Newholm

**Parish:** Newholm-Cum-Dunsley

**Case officer:** Miss Megan O'Mara

**Applicant:** Mrs Evelyn Clarkson

6 Stakesby Vale Court, Whitby, Yorkshire, YO21 3QR

**Agent:** Tudor Design

**fao:** Mr Eric Matthew, Valley View, Underhill , Glasidale, Whitby, North Yorkshire, YO21 2PF

## Director of Planning's Recommendation

That a Certificate of Lawfulness be GRANTED for the following reasons:

1. That the development described in the First Schedule has been carried out for more than 10 years.

First Schedule – The use of the timber building described in the Second Schedule for private equestrian and stabling purposes, for a period in excess of 10 years.

Second Schedule – The timber building, shown in red on the attached plan has been in situ for a period in excess of 4 years.

## Consultation responses

### Parish

No objections

### Third party responses

No responses

### Publicity expiry

Advertisement/site notice expiry date: 12 July 2023

This photo shows the existing building in situ, together with horses on the land. The photo is taken from the adjacent highway.



## Background

This application seeks to obtain a Certificate of Lawfulness for the erection of a timber building more than four years ago and for the use of the timber building as a stable block in excess of ten years.

The development site is a piece of land east of the main built-up area of Newholm. The land, together with the surrounding fields, is identified as agricultural in terms of its use. A timber stable building has been constructed in a central position along the northern boundary of the field. The building is of timber construction, running parallel to the field boundary and appears to be in a poor state of repair.

## Main issues

The legislation, under Section 191 of the Town and Country Planning Act 1990, provides that uses and operations are “lawful” if no enforcement action can be taken against them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason) and they are not in contravention of any enforcement notice which is in force.

The legislation states that the onus is on the applicant to establish that there has been a ten-year period in respect of the use of the land as a garden area in association with the dwellinghouse. Independent evidence is not required in order to substantiate an applicant’s claim however the applicant’s evidence should be sufficiently precise and unambiguous in order to lead to the conclusion that, based on the balance of probabilities, the existing use is lawful, and a duty is placed on the Local Planning Authority to issue a Certificate of Lawfulness.

If there is no evidence to contradict the applicant’s version of events, then there is no good reason to withhold the certificate; the Authority must proceed on the basis that neither the identity of the applicant nor the planning merits of the use or activity are relevant to the consideration of the purely legal issues which are involved in determining an application.

The main evidence submitted includes sales particulars of the land, a Rural Land Register (RLR) map and three signed statements.

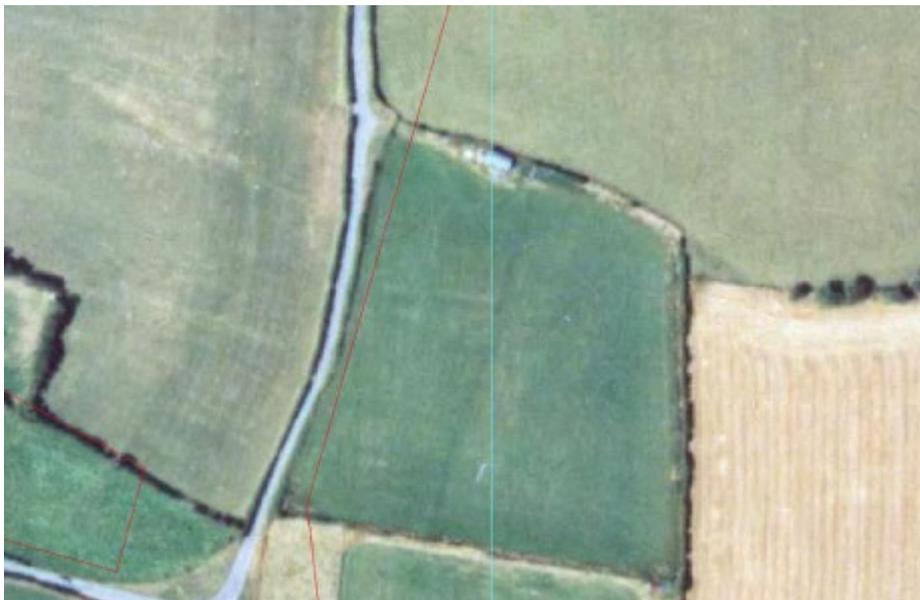
1. Mr Eric Matthew of Underhill, Glaisdale, Whitby states that he has been involved in sheep and horses for over 50 years and his work in Building Control leaves him to believe to the best of his knowledge that the following two statements are correct.
2. Ms Evelyn Clarkson of 6 Stakesby Vale Court, Whitby YO21 1SB states that she took over the field in 1988 and the timber building was present at that time and was in use for sheep and horses.

3. Ms Emma Bartlett of 22 Castle Road, Whitby, YO21 3NQ states that she has had sheep and horses at the field for the last 20 years and that the building had been there, to her knowledge, before this period.

The sales particulars are not dated in print but have been annotated by hand saying 'approx 2004'. Within the text of the sales particulars, it is stated that the land was 'registered for the Single Farm Payment Scheme in 2005', so it is assumed that the sales particulars were printed later than 2005. In terms of providing evidence, the sales particulars clearly show the building in situ at the time it was advertised on the market, however the date of the document cannot be confirmed therefore cannot be used independently to prove that the building has been sited on the land in excess of 4 years. There is also no reference to the nature of use of the building.

The Rural Land Register (RLR) map is dated 02/05/2012 and shows the outline of a linear building in the same location of the building to which this application relates, therefore suggesting that the building was present in 2012.

The Authority also has access to records that can support the assertion that the timber building has been in situ for a period in excess of 4 years. The images below date from 1995 to 2021; the timber building can be seen in the same location in each of these aerial images.



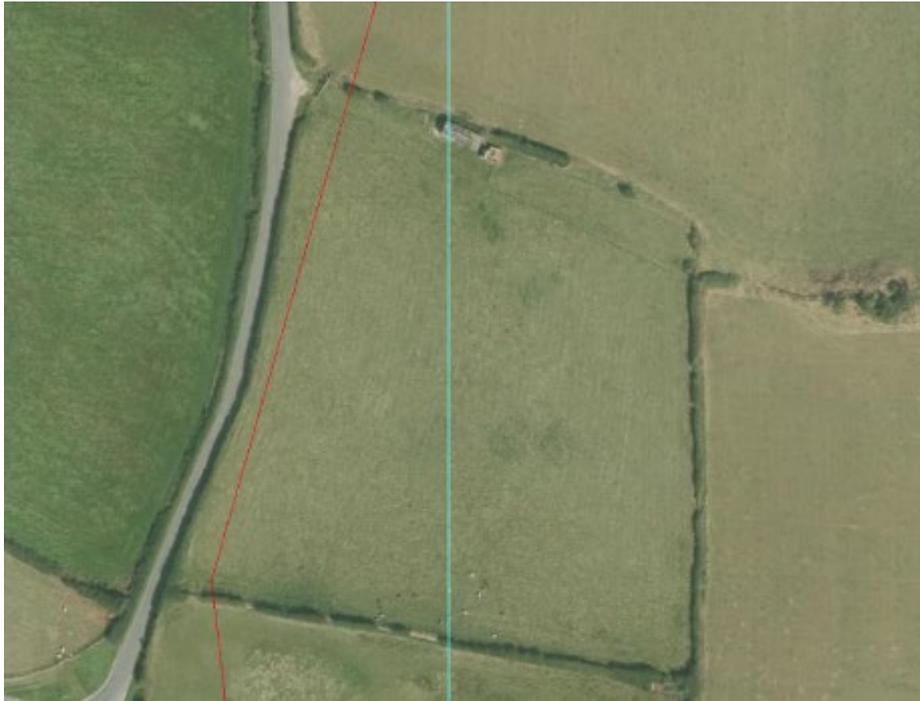
Aerial image dated 1995.



Aerial image dated 2001.



Aerial image dated 2009.



Aerial image dated 2015.



Aerial image dated 2021.

In assessing the above aerial images, supported by the Rural Land Register Map and the signed statements, it can be concluded that the timber building has been sited in the same location on the land for a period in excess of 4 years.

In terms of the use of the building, the aerial images and Rural Land Register Map provide no evidence to support the assertion that the building has been used for stabling purposes in excess of 10 years.

The sales particulars however do note that the land has been used for grazing sheep and that the existing building onsite provides useful stabling/amenity use. Unfortunately, as highlighted before, the sales particulars are not dated and cannot therefore be used to demonstrate 10 years of continuous use.

Whilst brief and lacking details of exact dates and nature of use, the signed statements imply that the building has been in use for sheep and horses for a considerable period of time. It is therefore considered that, on the balance of probability, the stated use for stabling purposes is lawful. There is also no evidence to contradict the applicant's evidence.

A number of other timber structures were observed by the Case Officer during the site visit. For avoidance of doubt, these structures are not included in this Certificate of Lawfulness.

To conclude, the Case Officer is satisfied that the requirements for issuing a Certificate of Lawfulness have been met and it is recommended that a Certificate is issued.