

# GEORGE F. WHITE

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Dear Planning Department

## **APPLICATION FOR A CERTIFICATE OF LAWFUL USE – LAND IN USE AS RESIDENTIAL CURTILAGE AT FIELDHOLME, EMBLETON NE66 3ER**

We are instructed on behalf of Ms E Richardson, (the Applicant) to apply for a Lawful Development Certificate in respect of land at Fieldholme, Embleton which is in use as garden land and falling within the curtilage of the existing residential property.

This Statement is submitted in support of the Lawful Development Certificate and has been prepared using information provided by the Applicant and from research compiled from the online resource of Northumberland County Council and other publicly available resources. The following documents have been submitted with the application:

- Application Form.
- Site Location Plan.
- Evidence Base and
- Supporting Statement (this Statement).

The application form, along with other supporting information fulfils the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Article 39 of the 2015 Order specifies the content of a Lawful Development Certificate application and how it must be submitted. Sufficient information / evidence must be supplied to enable the Local Planning Authority to determine the application. The article also requires that the application should precisely describe what is being applied for and the land which the application relates.

### Site Location and Background

The application site ('The Site') is the land to the west of Fieldholme, Embleton, which is, and has been used as part of an extended garden and therefore residential curtilage since the applicant purchased the property in 1998. The Plan attached at Appendix A delineates the site and the surrounding residential curtilage which is included within this certificate. Details at Appendix B include the Land Registry Register and Title Plan.

Details contained within the Title, Register and Transfer from 1998 identify that the property known as Fieldholme was purchased with additional land. This additional land which surrounds the property was previously used for agriculture and fell within a much larger field parcel prior to purchase. The Plan at Appendix B includes the Land Registry Title Plan. A blue dotted line has been added to show the original Field Parcel. The red line defines the current ownership, and is also marked with an A, B and C. As per the Title Register,

the Applicant at the point of purchase was required to erect a stock proof fence between points A, B and C. This fence not only formed the new boundary to the property and extended curtilage but severed the land and the dwelling from the existing agricultural use. The agricultural use continues to operate on the western side of the fence, with all residential operations being located to the east of the fence and associated with Fieldholme.

### Lawful Existing Use

Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the content of a Lawful Development Certificate application and how it must be submitted. Sufficient information / evidence must be supplied to enable the Local Planning Authority to determine the application. The article also requires that the application should precisely describe what is being applied for and the land which the application relates. The information contained in this application is sufficient to describe the use of the site and as a result confirm that the use of the land falls within Class C3 (Dwelling-houses) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 Amended 2021 and should be regarded as residential curtilage.

### Supporting Evidence

As identified a Lawful Development Certificate must include sufficient information / evidence to enable the Local Planning Authority to determine the application. However, in the case of applications for an existing use, if a local planning authority has no evidence itself, nor any 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 the certificate on the balance of probability. As a result, the local planning authority will need to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this application or process.

### Statement of Case

The property known as Fieldholme, Embleton as identified on the location plan at Appendix A is owned by the Applicant, Mrs E Richardson. Following the purchase of the property in 1998, a fence has been erected, severing the agricultural land from the now established residential garden and curtilage. This severance and the fence are shown as part of the Land Registry documents included at Appendix B. At Appendix C are a series of Google Earth Extracts. They have been annotated to and delineated to show the area of land which is regarded as residential curtilage. The images cover a period of 15 years.

A breach of planning control becomes "immune" from planning enforcement if no such action has been taken within precise time limits. By virtue of section 191 (2) and (3) of the 1990 Act, a breach which has obtained immunity by passage of time will become "lawful" for planning purposes. The time limit for the change of use of land without planning permission is 10 years. The land which is the subject of this application has been in use as residential curtilage in excess of 10 years and arguably from the point of purchase in 1998.

This application seeks to regularise the planning position through this application for a Certificate of Lawfulness for the use of land as residential curtilage. On the balance of probability, given the supporting evidence (Appendix A, B, C and D) it is therefore evident that the use of land at Fieldholme is as residential curtilage, originally carried out without the benefit of planning permission but now immune from planning enforcement and should be deemed to be lawful.

### Conclusion

This application has been sought to establish the Lawfulness of the land at Fieldholme Embleton which has a lawful Use Class falling within C3 – Dwelling-houses of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 Amended 2021. Lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or which planning permission is not required. The time for taking enforcement action has now expired, and as a result the site has established C3 Use and is considered residential curtilage because of its continued use and association with Fieldholme, the existing residential dwelling. The Local Planning Authority must therefore issue a certificate to confirm this in accordance with the details provided.

Yours sincerely



Craig Ross  
Partner

For and on behalf of George F. White LLP

Appendix A – Site Location Plan  
Appendix B – Land Registry Plan  
Appendix C - Evidence Base  
Appendix D – Statements – To follow