

**Planning and Regeneration**

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Mid Devon District Council Planning

A 'Good Two-Star Service' as rated by the Audit Commission

For office use only	
Application Number	
Date Received	Fee Received

Application for a Lawful Development Certificate for an Existing Use or Operation or Activity,
including those in breach of a planning condition

Town and Country Planning Act 1990 (as amended)

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Site Location

Disclaimer: We can only make recommendations based on the answers given in the questions.

If you cannot provide a postcode, the description of site location must be completed. Please provide the most accurate site description you can, to help locate the site - for example "field to the North of the Post Office".

Number

Suffix

Property Name

Address Line 1

Address Line 2

Address Line 3

Town/city

Postcode

Description of site location must be completed if postcode is not known:

Easting (x)

Northing (y)

Description

Applicant Details

Name/Company

Title

Mr

First name

Simon

Surname

Lane

Company Name

Address

Address line 1

Whitmoor House

Address line 2

Ashill Moor

Address line 3

Ashill

Town/City

Cullompton

County

Country

United Kingdom

Postcode

EX15 3NP

Are you an agent acting on behalf of the applicant?

Yes

No

Contact Details

Primary number

***** REDACTED *****

Secondary number

Fax number

Email address

Reason for Lawful Development Certificate

Please indicate why you are applying for a lawful development certificate

- An existing use
 Existing building works
 An existing use, building work or activity in breach of a condition

Being a use, building works or activity which is still going on at the date of this application.

If Yes, to either 'an existing use' or 'an existing use in breach of a condition', please select the relevant Use Class.

Description of Existing Use, Building Works or Activity

Please fully describe each existing use, building works or activity for which you want the lawful development certificate. Where appropriate, show to which part of the land each use, building works or activity relates

We are asking for a Certificate Of Lawful Development for a gateway on our property off the side road. This gateway has been in existence for over 7 years and was created by the previous owner of the property. We have added a gate internally from the edge of the road, on our own land due to the fields being occupied by horses - for their safety and security. We would therefore like to apply for a Certificate Of Lawful Development for this entrance to legalise its existence and allow it to be used, as it has been for at least 7 years, to enter the property at this point

Grounds for application for a Lawful Development Certificate

Under what grounds is the certificate being sought

- The use began more than 10 years before the date of this application
 The use, building works or activity in breach of condition began more than 10 years before the date of this application
 The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years
 The building works (for instance, building or engineering works) were substantially completed more than four years before the date of this application.
 The use as a single dwelling house began more than four years before the date of this application
 Other - please specify (this might include claims that the change of use or building work was not development, or that it benefited from planning permission granted under the Act or by the General Permitted Development Order).

Is the certificate being sought for a use, operation, or activity in breach of a condition or limitation?

- Yes
 No

Please state why a Lawful Development Certificate should be granted

This gateway has been used and in place for seven years. It allows access to the fields behind our property by, for example but not limited, tractors etc which will be needed to keep the land and property in the way it should be.

Information in support of a Lawful Development Certificate

When was the use or activity begun, or the building works substantially completed (date must be pre-application submission)?

01-07-2017

In the case of an existing use or activity in breach of conditions has there been any interruption?

- Yes
 No

In the case of an existing use of land, has there been any material change of use of the land since the start of the use for which a certificate is sought?

- Yes
 No

Residential Information

Does the application for a certificate relate to a residential use where the number of residential units has changed?

- Yes
 No

Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

- Yes
 No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

- The agent
 The applicant
 Other person

Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

- Yes
 No

If Yes, please complete the following information about the advice you were given (this will help the authority to deal with this application more efficiently):

Officer name:

Title

First Name

***** REDACTED *****

Surname

***** REDACTED *****

Reference

RE: Whitmoor House | 23/01331/FULL

Date (must be pre-application submission)

17/10/2023

Details of the pre-application advice received

The creation of an access to a field from an unclassified road, which is the case in this situation, does not require planning permission unless there were some earthworks required to cut/fill the land by more than 30-40 cm. In terms of any means of enclosure, if the existing gate is not more than 1 metre in height measured from the ground level then it is also permitted development and does not require an application for planning permission. However, if the field gate measures more than 1 metre in height then planning permission would be required. Given that the gate in question has been on the site in excess of 4 years it is therefore lawful and immune from any enforcement action. If you wish to receive a formal confirmation from the Council that the existing means of enclosure are lawful then you can submit an application for a certificate of lawful development (existing) to demonstrate one of the following:

- the creation of an vehicular access onto the field and the erection of a field gate up to 1 metre in height is permitted development which does not require planning permission; or
- the use of the existing field gate more than 1 metre in height in excess of 4 years is now lawful.

In the first instance, the certificate would be a formal confirmation that the existing development is lawful in its own rights as per permitted development rights under Class A (gates, fences, walls. Etc.) and B (means of access to a highway) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

If the existing gate required planning permission in the first place due to its dimensions, then an application for a certificate of lawful development (existing) would be to demonstrate to the Council that the existing means of enclosure has been present on the site for more than 4 years and therefore, it is lawful.

Whether the gate is permitted development in its own right or it was erected unlawfully but given it has been on the site for more than 4 years it is now lawful, there is no requirement to submit an application for certificate of lawfulness or apply retrospectively for planning permission for the retention of gate, unless you have an enforcement case and you were asked by the Council's enforcement officer to regularise it. Alternatively, if you wish to obtain some kind of a formal document that confirms the lawfulness of the existing gate/means of access to a highway then one of the mentioned options above would be the most appropriate way of going forward.

Interest in the Land

Please state the applicant's interest in the land

- Owner
- Lessee
- Occupier
- Other

Authority Employee/Member

With respect to the Authority, is the applicant and/or agent one of the following:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

It is an important principle of decision-making that the process is open and transparent.

For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the Local Planning Authority.

Do any of the above statements apply?

- Yes
- No

Declaration

I/We hereby apply for Lawful development: Existing use as described in the questions answered, details provided, and the accompanying plans/drawings and additional information.

I/We confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

I/We also accept that, in accordance with the Planning Portal's terms and conditions:

- Once submitted, this information will be made available to the Local Planning Authority and, once validated by them, be published as part of a public register and on the authority's website;
- Our system will automatically generate and send you emails in regard to the submission of this application.

I / We agree to the outlined declaration

Signed

Simon Lane

Date

19/04/2024