

# RYEDALE DISTRICT COUNCIL

## TOWN & COUNTRY PLANNING ACT 1990: SECTIONS 191 AND 192

(as amended by Section 10 of the Planning & Compensation Act 1991)

### TOWN & COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

#### CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

The Ryedale District Council hereby certify that on (a) 4 May 2020 the matters described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this Certificate (the buildings labelled 'New Dwelling' and 'Shed' on the plan attached to this Certificate), were lawful within the meaning of Section 191 of the Town & Country Planning Act 1990 (as amended), for the following reason(s):

**Reference No:** 20/00399/CLEUD

**(b) First Schedule:** Certificate of Lawfulness in relation to the erection of a shed in breach of Condition 05 (removal of permitted development rights under Class E) and in relation to failure to demolish the existing dwelling in breach of Condition 07 (demolish and remove existing dwelling within one month of the occupancy of the new approved dwelling) both relating to the erection of a replacement dwelling at Badger Bank under approval 3/4/16/FA dated 24.05.1996 and that these breaches began more than 10 years before the date of this lawfulness application

**(c) Second Schedule:** Badger Bank Badger Bank Road Westow Malton YO60 7LG

#### REASONS:

1 On the balance of probabilities, after carefully considering all the available evidence, the Local Planning Authority is satisfied that the breach of conditions comprising the erection of a shed (Condition 5) and the occupation of the new dwelling prior to the demolition of the former dwelling (Condition 7) occurred more than 10 years before the date of this application.

#### INFORMATIVE(S)

- i) There is a Public Right of Way or a 'claimed' Public Right of Way within or adjoining the application site boundary - please see the attached plan.
- ii) If the proposed development will physically affect the Public Right of Way permanently in any way an application to the Local Planning Authority for a Public Path Order/Diversion Order will need to be made under S.257 of the Town and Country Planning Act 1990 as soon as possible. Please contact the Local Planning Authority for a Public Path Order application form.
- iii) If the proposed development will physically affect a Public Right of Way temporarily during the period of development works only, an application to the Highway Authority (North Yorkshire County

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Council) for a Temporary Closure Order is required. Please contact the County Council or visit their website for an application form.

- iv) The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as an alternative route has been provided by either a temporary or permanent Order.
- v) It is an offence to obstruct a Public Right of Way and enforcement action can be taken by the Highway Authority to remove any obstruction.
- vi) If there is a "claimed" Public Right of Way within or adjoining the application site boundary, the route is the subject of a formal application and should be regarded in the same way as a Public Right of Way until such time as the application is resolved.
- vii) Where public access is to be retained during the development period, it shall be kept free from obstruction and all persons working on the development site must be made aware that a Public Right of Way exists, and must have regard for the safety of Public Rights of Way users at all times.

Applicants should contact the County Council's Countryside Access Service at County Hall, Northallerton via CATO@northyorks.gov.uk to obtain up-to-date information regarding the exact route of the way and to discuss any initial proposals for altering the route.

Signed .....  .....(Council's authorised officer)

Date .....12.06.2020.....

**NOTES:**

- 1. This certificate is issued solely for the purpose of Section 191 of the Town & Country Planning Act 1990 (as amended).
- 2. It certifies that the matters specified in the First Schedule taking place on the land described in the Second Schedule were lawful, on the specified date and, thus, were not liable to enforcement action under Section 172 of the 1990 Act on that date.
- 3. This certificate applies only to the extent of the matters described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matters which are materially different from those described or which relate to other land may render the owner or occupier liable to enforcement action.
- 4. The effect of the certificate is also qualified by the proviso in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

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