

# Certificate of lawfulness (existing use) Horton Grange, Horton, Skipton

## Introduction

This letter has been prepared to support an application for a certificate of lawfulness (existing use) on behalf of Christopher and Haidee Gateley ('the Applicants'). This letter, accompanied by a statutory declaration by the former owner of the property, [REDACTED] provides evidence that the existing use of the parcel of land at Horton Grange has been in continuous residential use for over 10 years (since 2010).

In addition to the sworn statements by Peter McManus and Christopher Gateley, the submission is also accompanied by:

- A site local plan.
- Google Earth Imagery dated 2010-2025.
- An invoice dated 2010 for the fencing around the car parking area.

## Site description and history

Horton Grange is a large family dwelling that is Grade 2 listed. There is a demonstrable material change of use of the land immediately to the west of the existing residential property and has done so for a period in excess of 10 years.

The site is currently gravelled and is used for car parking in conjunction with Horton Grange residential property. A site image is shown below in Figure 1, which illustrates the area of land established over the last 15 years. This is confirmed via the provision of a statutory declaration from the previous owner of the property.

Therefore, the use and development for which the certificate is sought is:

'Use of land as domestic curtilage.'

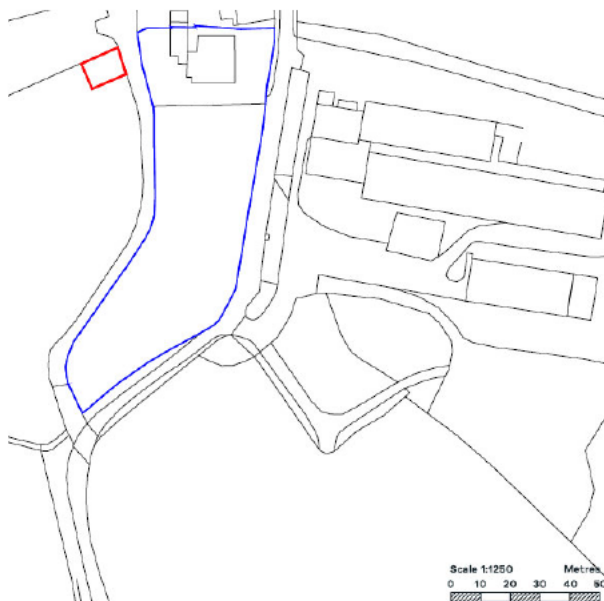


Figure 1: The parcel of land subject to this CLEUD is outlined in red.

### Legal scope of the application

The application for a certificate of lawfulness existing use or development is made in respect of Section 191 of the Town & Country Planning Act 1990, and further guidance is contained within the National Planning Practice Guidance (NPPG).

With regard to certificates of lawfulness, subsection 4, Paragraph 8.7 of Circular 10/97 confirms that:

‘There is no compulsion to apply for an LDC, where a use is lawful.’

However, it is considered appropriate for the avoidance of doubt to formally establish with the local planning authority that the use of the land is lawful. In this instance, the land is considered residential curtilage.

### The test of evidence provided.

Circular 10/97, Annexe 8 (Lawfulness and the Lawful Development Certificate) confirms that in any application of this nature it is for the applicant to show ‘on the balance of probability’ that the use is a lawful one and that the test in criminal law of ‘beyond all reasonable doubt’ must not be applied.

Documentation and details have been submitted with this application that provide evidence that the land has been used continuously for residential purposes for more than 10 years. In this case, the evidence submitted is considered to be conclusive in terms of the lawfulness of the use. Without doubt, the ‘balance of probability’ (or ‘more than likely’) test is met, as qualified in the following supporting statement.

### Relevant time period

The application covers the use of the land as residential curtilage.

The relevant time period upon which the lawfulness of the existing use of the buildings should be assessed is 10 years, as qualified by Section 171B (3) of the Town and Country Planning Act 1990.

### Evidence proving the lawful use of the buildings and the surrounding land.

Horton Grange is surrounded to the south and west by open fields and is accessed from Raikes Lane via an existing sweeping driveway track, with the entrance also providing vehicular access to the adjacent existing cottages and the other buildings that make up this small cluster of residential buildings.

This car parking area has been established by the installation of wooden fencing and a gravelled surface. This area can and frequently does accommodate a number of vehicles. The site itself is bordered on one side by agricultural fields and on the other side by the built form, which comprises Horton Grange. Based on Google Earth images, the use covers the land shown on Figure 1.

### Aerial images

A review of aerial photography clearly shows that the proposed buildings were in situ at the site in December 2010 and therefore for more than ten years, as required by Section 171B (3) of the Town and Country Planning Act 1990.



Figure 2: Site image - December 2010 (although this Google image is less clear than the later images, it still identifies the installation of the car parking area, which is fenced and gravelled).

Source: Google Earth

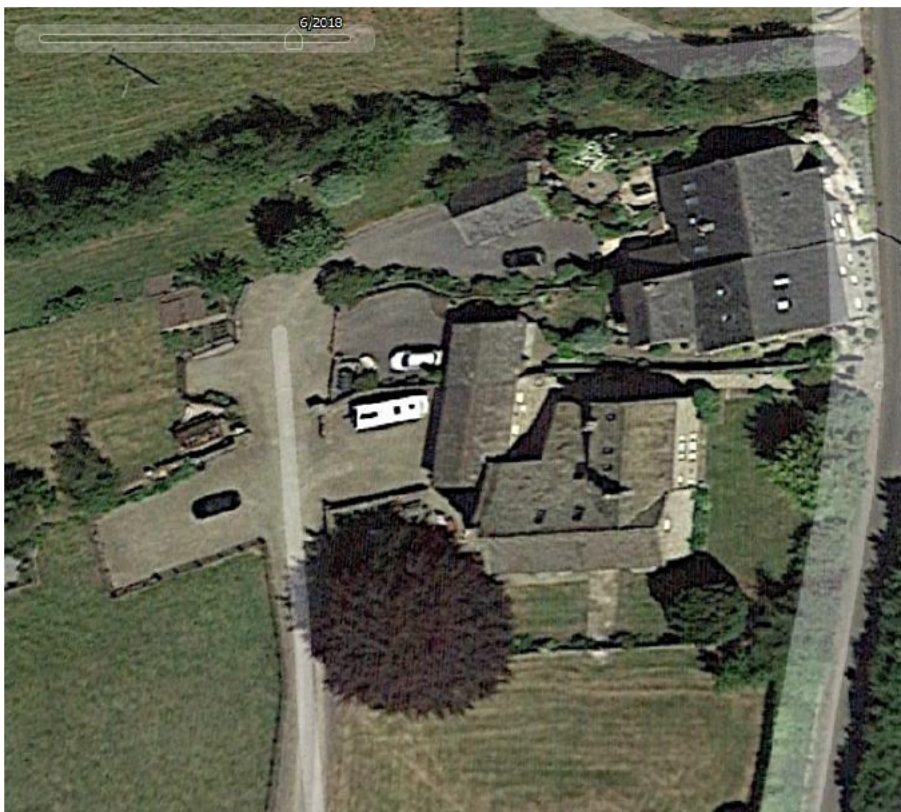


Figure 3: Site image - June 2018

Source: Google Earth

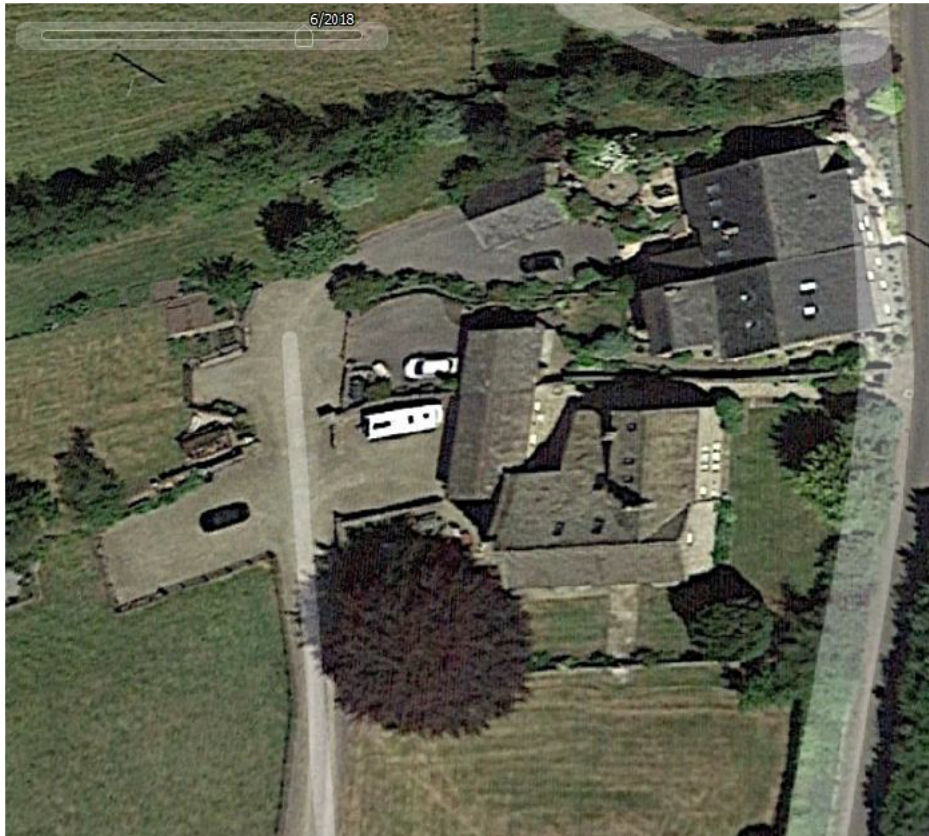


Figure 4: Site image - April 2020

Source: Google Earth

#### Additional evidence

[REDACTED] the former owner of the property between the years of 1999 to 2025.

This confirms that on the land to the west of the Horton Grange dwelling house has been enclosed with fencing and gravelled and continuously used as a car parking area during the ownership of the property up until 2025.

The current owners of the property have continuously used the land as domestic curtilage (i.e for car parking) during their ownership and have provided a sworn affidavit to that effect.

It is also notable that Historic England defines this parcel of land separately from the adjoining fields on their listing map, but clearly it is not part of the listed building curtilage.

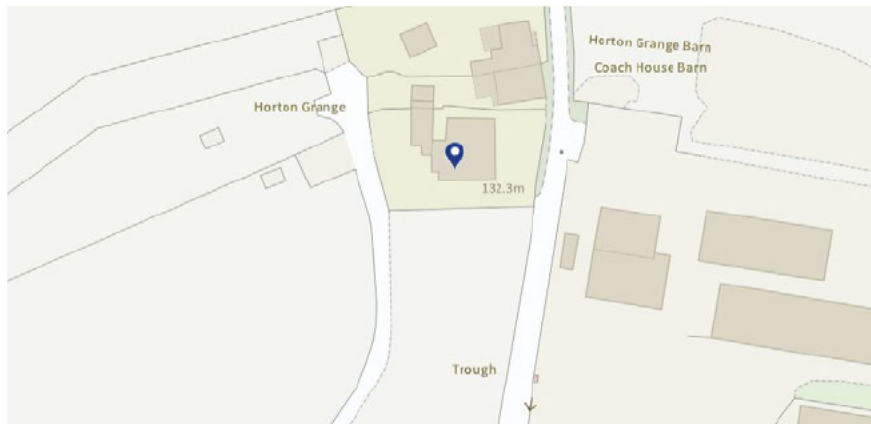


Figure 5: Snapshot of Historic England map, which defines the development surrounding the listed building.

## Conclusions

A certificate of lawfulness is sought for the area of land used as domestic curtilage for Horton Grange.

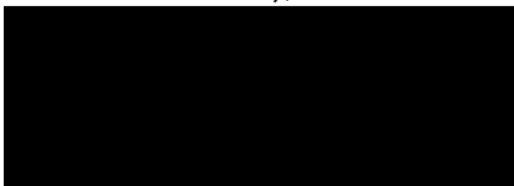
As outlined, the relevant test of the evidence submitted in respect of a certificate of lawfulness (existing use or development) is whether, on balance of probability, the use or development is a lawful one.

In support of the application, a statutory declaration has been provided, which establishes the use of the land for over 10 years. Furthermore, visual evidence clearly shows that the land has been separated from the adjoining field, gravelled and enclosed with wooden fencing since December 2010.

There is, therefore, no reason for Ribble Valley Borough Council to withhold a certificate of lawfulness from the applicant in this instance.

Should you require any further information in respect to the site and the most recent use of the site, please do not hesitate to contact me.

Yours sincerely,



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