


Report to be read in conjunction with the Decision Notice.

Signed:	Officer:	EP	Date:	24/10/2025	Manager:	SK	Date:	6.11.25
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Application Ref:	2025/0698			 Ribble Valley Borough Council <small>www.ribblevalley.gov.uk</small>					
Date Inspected:	N/A	Site Notice:	N/A						
Officer:	EP								
DELEGATED ITEM FILE REPORT:					APPROVAL				

Development Description:	Certificate of Lawfulness for existing use of land as domestic garden.
Site Address/Location:	Land off Old Nab Road York Langho BB6 8DU.

CONSULTATIONS:	Parish/Town Council
No comments received.	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
LCC Highways:	N/A

CONSULTATIONS:	Additional Representations.
No comments received.	

RELEVANT POLICIES AND SITE PLANNING HISTORY:

The Town and Country Planning Act 1990 Section 191
The Planning and Compensation Act 1991 Section 171B Time Limits

Relevant Planning History:

No recent planning history.

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

The application relates to a parcel of land with garage and driveway located off Old Nab Road. The parcel of land is associated with 1 Whalley Old Road which is approximately 50 metres west of the site. The application site is within the designated Green Belt.

Proposed Development for which consent is sought:

The application seeks to establish the lawful use of an area of land as domestic curtilage in association with the residential property known as Horton Grange, having regard to Section 171(B) of the Town and Country Planning Act 1990.

It is the applicant's claim that the land has been used for domestic purposes for a period in excess of 10 years. The application is being made in accordance with Section 191 of the Town and Country Planning Act 1990, and the onus is on the applicant to prove 'on the balance of probability' that the domestic use of the land is lawful.

National Planning Practice Guidance states that 'in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise made the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability'.

Other Matters:

The main issue is whether or not there is sufficient evidence to support that there has been a continuous domestic use of the land in question for more than 10 years before the date of this application, in relation to the provisions of Section 171(B) of the Town and Country Planning Act. Section 171(B) of the Act provides timescales whereby unauthorised development becomes immune from enforcement action and as such becomes lawful. With respect to the change of use of land, Section 171(B) reads as follows:

In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

It is the applicant's claim that the land the subject of this application has been used as domestic curtilage for many years. The applicant purchased the property in 2008, and the land has been used as garden since this date (accounting for 17 years), with further evidence to suggest that previous owners also utilised the land as garden curtilage. In terms of supporting evidence, the application has been accompanied by a copy of the sales particulars for the purchase of the property in 2008 which refers to the land parcel as the 'garden plot', a copy of a homebuyers survey dates 1987 (conducted by the previous owners), a copy of rental particulars advertising the property with images of the garden area, a copy of tenancy agreement which suggests the garden area is included with the property and should be painted, and a series of aerial photography and other images with dates.

The information contained within the supporting documents states that the area of land edged red, associated with 1 Whalley Old Road, has been utilised for the parking of vehicles having a detached garage and driveway in conjunction with the residential property since at least 2008 when the applicant purchased the property. This is evidenced within the sales particulars from the 2008 purchase. Photographic evidence also shows the existence of a shed and vegetable patches to support and further evidence the suggested domestic use.

A review of the submitted aerial photography as well as Google Earth imagery shows that the land has been separated from the adjoining field and reasonably maintained with the garage and parking area visible, from as early as 2002.

Taking account of the submitted supporting information and in the absence of any other evidence to suggest otherwise, it is considered that the land has been used as a domestic parking area in association with 1 Whalley Old Road for a period in excess of 10 years.

Observations/Consideration of Matters Raised/Conclusion:

On the basis of the available evidence and the balance of probabilities, it is considered that the area of land edged in red on the submitted 'Location Plan' (dwg no 01) has been used as residential curtilage in association with the residential property known as 1 Whalley Old Road for a period in excess of 10 years and is therefore considered lawful by virtue of Section 191 of the Town and Country Planning Act 1990.

RECOMMENDATION:

That the Certificate of Lawfulness be granted.