



South Tyneside Council

REFUSAL TO GRANT CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

**Town and Country Planning Act 1990: Section 191 and 192
(as amended by Section 10 of the Planning and Compensation Act 1991)
Town and Country Planning (Development Management Procedure) (England)
Order 2015: Article 35**

D. M. Fleming Building Design Consultant
The Coachhouse
Longhirst
Morpeth
Northumberland
NE61 3LU

South Tyneside Council hereby considers that on the use described in the First Schedule to this notice in respect of the land specified in the Second Schedule to this notice and on the plan attached to this notice was not lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reasons:

- 1 The factual evidence submitted in support of this application fails to demonstrate on the balance of probability that the residential use of the application site edged red on Drg No. L(9-)02 has existed continually for ten years as required by the Town & Country Planning Act 1990. The applicant has failed to demonstrate precisely and unambiguously the date of commencement of the residential use. The date of commencement is not confirmed by the council's own information, that is, aerial photograph dated September 2008 which shows that the land is not in residential use at this time.

Signed:  (Council's authorised officer)

On behalf of South Tyneside Council

Date: 14/12/2015

Application No: ST/0963/15/CLU

FIRST SCHEDULE

Application for a Lawful Development Certificate for the existing use of the application site (Title Deed No. TY24562) as a residential garden.

SECOND SCHEDULE

10 Follonsby Terrace, West Boldon, NE36 0BZ

Important: Please read the attached notes.

NOTES

1. This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use specified in the First Schedule taking place on the land described in the Second Schedule would not have been lawful, on the specified date and, thus, it is liable to enforcement action under section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates 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.

APPEALS TO THE SECRETARY OF STATE

5. Only the applicant possesses the right of appeal

If you are aggrieved by the decision of the Local Planning Authority to refuse the application (in whole or in part) then you may appeal to the Secretary of State for Communities and Local Government in accordance of section 195 of the Town and Country Planning Act 1990. Please note that your appeal will be turned away if an effective Enforcement Notice is in force. The Secretary of State is not required to entertain an appeal if it appears to him that the certificate could not have been granted by the Local Planning Authority, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.

Appeals can be made online using the Planning Inspectorates planning appeal service through the Planning Portal at <http://www.planningportal.gov.uk/planning/appeals/online/makeanappeal>. You must use a Certificate of Lawful Use or Development Appeal Form when making your appeal. Please be aware that details of planning appeals are available on the internet and may include a copy of the original application form and relevant supporting documents supplied to ourselves, either by you, or your agent, together with the completed appeal form, and information that you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More information about data protection and privacy matters is available on the planning portal website.

Alternatively if you do not wish to submit your appeal electronically, a form is obtainable from The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN. Email: enquiries@planning-inspectorate.gsi.gov.uk or telephone 0303 4445000. Please note that you must state the appeal form that you require.