**DELEGATED DECISION REPORT**

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| **SMD/2016/0684**<br>**Valid 14/12/2016** | **HIGH BENT**<br>**THE HOLLANDS**<br>**BIDDULPH MOOR** | **CERTIFICATE OF LAWFULLNESS APPLICATION FOR EXISTING BUILDING AND ITS USE FOR STABLING OF HORSES AND LIVESTOCK**<br><br>**(CERTIFICATE OF LAWFULNESS - EXISTING)** |

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**MAIN ISSUES**

- Whether on the balance of probabilities the evidence supports the existence of the building for at least four years
- Whether on the balance of probabilities the evidence supports the use of the building for stabling of horses and/or livestock for at least 10 years

**DESCRIPTION OF SITE**

High Bent is a much extended two storey detached stone house which stands alone in the SE corner of a field opposite a T junction in the lane known as The Hollands some 500m west of the Lask Edge Top Road. The 1877-87 OS map shows a building corresponding in scale and position with the identifiably older part of the current house and sales particulars submitted with this application dating from 2004 suggest the house has 17thC origins. The 1899-1901 OS map clearly identifies buildings at the site and also shows discrete enclosures to the front (south ) and to the west side of the house which would equate with curtilage. The standard OS land parcel bracketing symbol shows the house and curtilage parcels as being measured in with land parcel 530, a field of 3.051acres. The house and curtilage is similarly shown on the 1922-1925 OS map although the acreage of field 530 is given as 2.111 and 0.934 acres no doubt simply reflecting a division in map sheets.

Field parcel 530 remains identifiable to the present day but a division has at some point been created and shown on recent OS maps to separate out a circa 0.65 acre plot at the eastern end incorporating the house with garden and driveway. The house and garden are at the southern end of this smaller plot. Towards the NW corner of the plot is the stable / livestock housing subject of this application. The building is approximately 18m in length N to S and 4.5m wide with a c.3m gabled projection off the north easterly end. Vehicular access to the building is via a broad rolled gravel driveway neatly edged with stone sett curbing. The driveway opens off The Hollands through double gates from a point some 40m NE of the separate driveway into the house at High Bent. The stables driveway also serves a former detached single garage subject of a separate lawful certificate application, SMD/2016/0685.

The stables building comprises four loose boxes and a store. A fenced and gated narrow pen (c.3m wide) runs along the easterly side of the stables and at the date of a site visit on the 24th January 2017 this was occupied by some five or more black and white horned sheep with open access into one of the stable loose boxes. Abutting the rear (W) side of the stables there was a large netted enclosure housing a variety of waterfowl.

The c.15m to 20m section of land between the stables and the edge of the driveway on the north side of the house at High Bent is to grass with a loose cluster of c.7 semi-mature Larch trees. There was some tree stump evidence of trees now removed and the aerial photographs of 2006 and 2011 suggest a significantly greater tree coverage from those dates.

**EVIDENCE SUBMITTED**

The applicants submit that they have owned and lived at High Bent since August 2004. Also submitted are copy of a quotation for the supply and erection of timber stables "valid for 60 days from 28th June 2004" clearly describing and specifying in detail a building corresponding to the building now on site and also an electrician's invoice for the installation of lighting to the stables at High Bent along with a completed installation certificate dated 15th February 2005.

The applicants have also submitted a screen shot of a Google Earth aerial photograph of the site which includes an imagery date of 1/1/2006. However this date is clearly wrong as the trees and hedgerows visible are in full green leaf. The date at best can only refer to the year in which the photograph was taken.

**Other Evidence**

The stables building found present today is clearly identifiable on the Council's aerial photograph from 17th and 18th July 2006. In fact this is recognisably the same photo as that submitted by the applicants. This photo also clearly shows the surfaced access from The Hollands in the position as found today.

**RELEVANT LEGISLATION AND NATIONAL PLANNING POLICIES**

TCPA(1990) s.191 provides for the granting of a certificate of lawfulness of existing development. Government guidance is set out in the National Planning Practice Guidance (NPPG).

**CONSULTATIONS**

**Publicity**

Site Notice expiry date: 14th February 2017
Neighbour consultation period ends: N/A
Press Advert: N/A

**Public Comments**
None

**Town / Parish Comments**
Biddulph Town Council – "no adverse comments"

**OFFICER COMMENTS**
**Principle**
There are two separate aspects of development to be considered here: (a) the building operation to construct the stables on the land and (b) the usage of the building. If it can be established on the balance of probability that the operational development – in this case the construction of the stables – has been in place for four years at least it must be regarded as lawful as set out at TCPA (1990) section 191. If it can be established that the change of use development – in this case the use of the building for the stabling of horses and/or livestock – has been taking place for ten years at least it must be regarded as lawful as set out at TCPA (1990) section 191.

**Other matters**
The application expressly seeks certificate of lawfulness for an existing use for "stables" for "stabling of horses and livestock". Reference is made at box 4 in the application form to a pre-application advice discussion at the offices in Leek (officer not stated). It appears that one line of consideration was whether the stables may have been permitted development at the time of construction on the basis of possibly being within the curtilage of the dwelling house at High Bent. No evidence has been submitted to show that the site of the stables is within the curtilage of the dwelling and several factors point to it not being. Chief of these is that the early OS maps show High Bent to have been located within a field with discrete curtilage boundaries immediately around the buildings. The stables are accessed by their own driveway directly off The Hollands independently of that serving the house and its attached domestic garages.

**CONCLUSION / PLANNING BALANCE**
The submitted details including dated construction quotation and electrician's work schedule and electrical completion certificate along with the July 2006 air photograph leave no doubt that not only has the stable building been in place for at least four years, in fact it has been in place for more than 10 years – along with its access from The Hollands. The evidence exceeds the minimum necessary.

Whilst it is not conclusively shown that the stables have been in use as stabling / livestock housing for 10 years or more this is not necessary to establish the lawful use. The LPA has no evidence to the contrary and on the balance of probabilities given the building is very specifically designed and constructed as stabling / livestock housing and is currently in this use and noting the c.1.85ha (c.4.5 acres) of field land in the ownership at High Bent since 2004, there is no cause or reason to conclude other than that this has been its established use since construction.

It should be noted that no evidence has been identified to suggest that the stables are within the curtilage of High Bent but this is not necessary to establish their lawfulness given the passage of time.

The submitted plan, whilst considered sufficiently accurate to identify the building in question, is not precisely correct and for the purposes of any certificate a plan based on the actual position of the building which can be derived from the air photograph on the Council's mapping system should be used.

**OFFICER RECOMMENDATION :** To grant a certificate of lawfulness

**Case Officer:** Arne Swithenbank
**Recommendation Date:** 14th February 2017

X B.J. Haywood

Signed by: Haywood, Ben

**On behalf of Staffordshire Moorlands District Council**