STAFFORDSHIRE
moorlands
DISTRICT COUNCIL
ACHIEVING · EXCELLENCE

Simon W. Baker B.Ed MBA MIMSPA
Chief Executive

Mr Michael Askew
Knights 1759
The Brampton
Newcastle under Lyme
ST5 0QW

Mr Graham
Lea House Farm
Horton
Staffordshire

Application no: SMD/2017/0856

Determined on: 15/03/2018

Town and Country Planning Act 1990 Section 191
(As amended by Section10 of Planning and Compensation Act 1991)
Town and Country Planning (Development Management Procedure) (England) Order 2015

REFUSAL TO ISSUE CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT

The Staffordshire Moorlands District Council hereby REFUSES to certify that on 22/12/2017; the matter constituting an existing failure to comply with the occupancy condition that is specified in the First Schedule ("the Occupancy Condition") at the property specified in the Second Schedule ("the Flat") had become lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended). This matter was not lawful for the following reasons:

1. The existing and ongoing failure to comply with "the Occupancy Condition" by a person occupying "the Flat" who does not have a main residence elsewhere and has occupied "the Flat" for a period in excess of 4 weeks, only began on the 1st April 2017 and exceeded 4 weeks from the 29th April 2017. It had been taking place, therefore, for less than 9 months on the date of the application. After this period of time enforcement action may still be taken and the matter can not be considered lawful.

2. Immediately prior to the existing and ongoing failure to comply with "the Occupancy Condition" there was no such failure to comply for a period of at least 5 months, because "the Flat" was vacant. During that time there was no breach that could have been the subject of enforcement action. The period of occupation in excess of 4 weeks, that preceeded that 5 month period, began on the 25th May 2015 and lasted for less than 17months and, after that period of time, enforcement action could still have been taken.

FIRST SCHEDULE

Condition no. 2 of planning permission 03/01292/FUL that was granted for a change of use from stable loft to holiday flat on the 30th January 2004, the condition reads as follows:

"The holiday unit(s) hereby permitted shall only be occupied by persons whose main residence is elsewhere; no person shall occupy the unit(s) for a period in excess of 4 weeks at any one time, nor return to the unit(s) until a period of at least 4 weeks has elapsed"

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SECOND SCHEDULE

The converted stable loft forming a first floor flat at Lea House Farm, Bond House Lane, Horton, Staffordshire, ST13 8PU, that is outlined in red on the attached location plan numbered LH 1.

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

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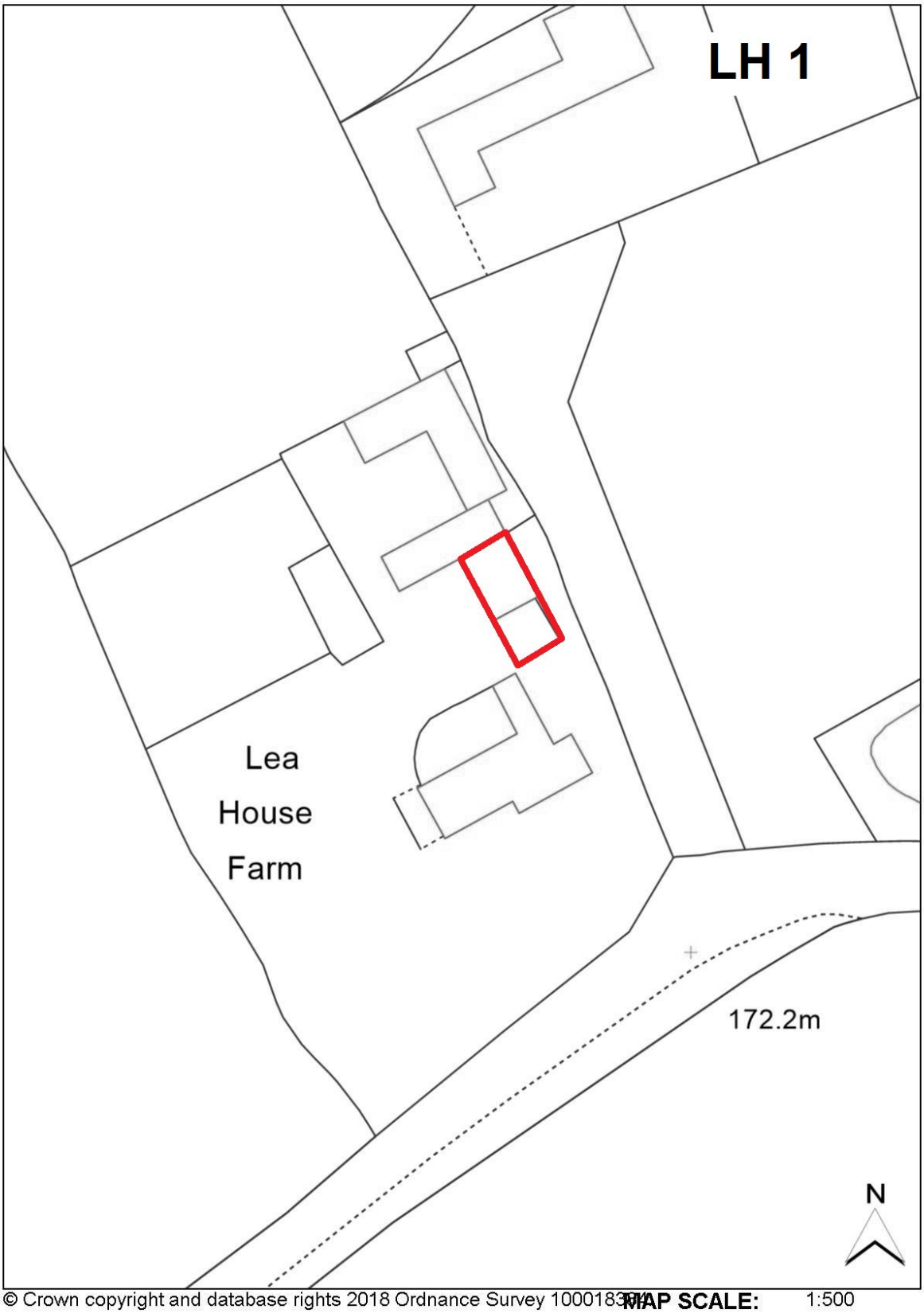
Chief Executive



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MAP SCALE: 1:500

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NOTES

1. An applicant may appeal against by giving notice to the Secretary of State:-

   (a) the refusal to issue a certificate under Section 191 of the Act; or

   (b) the failure to give notice of the Council's decision within 8 weeks of the registration of the application, or any other period agreed with the Local Planning Authority;

   Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at https://acp.planninginspectorate.gov.uk

2. As part of the appeal process the Applicant must submit to the Planning Inspectorate a copy of the following documents:

   - a copy of your original application
   - a copy of the local planning authority's decision notice - if they didn't make a decision, send a copy of the letter acknowledging your application
   - a map of the site
   - copies of all plans, drawings and documents you sent to the local planning authority
   - copies of any letters or emails from the local planning authority
   - any other documents that directly support your appeal

   If you think your land or building is now lawful because the time limit for enforcement has passed, you also need to submit evidence like:

   - dated photographs of the site
   - letters from neighbours
   - receipts or invoices for work
   - plans and drawings