STAFFORDSHIRE
moorlands
DISTRICT COUNCIL
ACHIEVING · EXCELLENCE

Simon W. Baker B.Ed MBA MIMSPA
Chief Executive

Mr Thomas
Wetley Abbey Cottage
Abbey Road
Wetley Rocks
ST9 0AS

Application no: SMD/2018/0126

Determined on: 20/04/2018

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 23/02/2018; the use specified in the First Schedule ("the Use") that it is said in the application has been taking place on the land specified in the Second Schedule ("the Land"), was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 ("the Act"). "The Use" is NOT considered to be lawful for the following reason(s):

1. *The way in which "the Use" is described and set out in the application does not appear to be an accurate description of either the use of "the Land" that was taking place on the date of the application or was most recent before the applicant's purchase. Specifically, a large stable building and a paved area with garden furniture, introduced without planning permission, are indicative that the land has been or is used to keep or stable horses and as a patio. These operational developments are not accounted for in the description of "the Use" or explained in the planing history or evidence. These uses intervene within the planning history and are likely to have resulted in a new material change of use, without planning permision that is not immune from enforcement action.*

2. *The submitted evidence lacks precision and clarity it does not detail exactly when the material change of use occurred; the nature and scope of the reuslting uses; or attest to the continuity and regularity of those uses over a specified period of time. Rather the evidence appears to present an assumed understanding of particular terminology and included uses that might normally be associated with land that is within the curtilage or planning unit of a dwellinghouse. "The Land" is not within the curtilage or the planning unit of a dwellinghouse and those associations can not be relied upon to demonstrate an immunity from enforcement action.*

3. *"The Land" can be lawfully used for the purposes of agriculture because by virtue of*

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s.55(2)(e) this is a use of land that shall not be taken for the purposes of "the Act" to involve development, this would include the 'gardening' of the land as an agricultural or horticultural activity. The evidence does not demonstrate that the lawful use of the land is for anything other than those agrciultural purposes which are, in any event, exempt from the meaning of development for the purposes of "the Act".

FIRST SCHEDULE

Domestic residential garden including the use of "the Land" by children to trampoline and play; and the owner's family to dine and pic nic.

SECOND SCHEDULE

Land to the south of Wetley Abbey Farm and Wetley Abbey Cottage, Abbey Road, Wetley Rocks, Staffordshire, ST9 0AS, that is shown edged red on the attached plan numbered WA1.

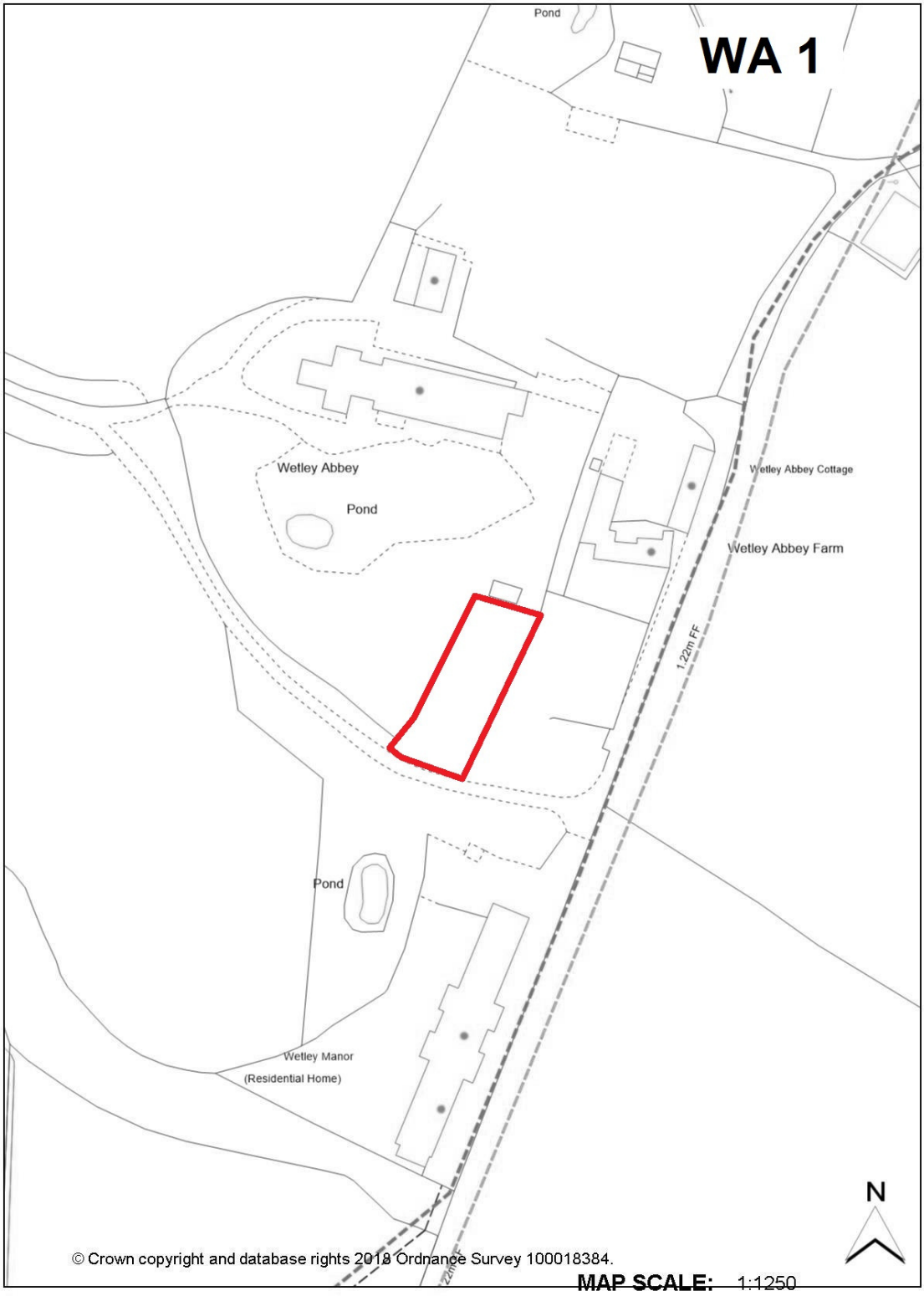
X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

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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