STAFFORDSHIRE
moorlands
DISTRICT COUNCIL
ACHIEVING · EXCELLENCE

Simon W. Baker B.Ed MBA MIMSPA
Chief Executive

Mr Ken Wainman
Ken Wainman Associates Ltd
31A St Edward Street
Leek
ST13 5DN

Mr Lockwood
Rock House Farm
Town End Road
Foxt
ST10 2HN

Application no: SMD/2018/0188

Determined on: 12TH June 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

APPROVAL TO ISSUE CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT

The Staffordshire Moorlands District Council hereby approves to certify that on 21/03/2018; the use specified at (i) of the First Schedule ("Use A") to the extent that it is limited to and only taking place on the area of the land specified at (i) of the Second Schedule ("the Red Land"); and the use specified at (ii) of the First Schedule ("Use B") taking place on the area of the land specified at (ii) of the Second Schedule ("the Blue Land"), were lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 ("the Act"). The reason(s) for this determination are as follows:

"Use A" is lawful because it takes place on land that is within the curtilage of the dwellinghouses identified as Dormouse and Hedgehog Cottage because the land meets the case law tests set out in the judgement of 'Sinclair-Lockhart's Trustees' and, with consideration of the evidence, has, on balance of probability, been used as such for a continuous 10 year period prior to the date of the application. In these circumstances s.55 (2)(d) of "the Act" clarifies that such uses of land shall not be taken for the purposes of "the Act" to involve development of the land.

"Use B" is lawful because it amounts to no more than the land being used and enjoyed for the purposes of horticulture. At s.336 it is made clear that in "the Act" the term agriculture includes horticulture and s.55 (2)(e) of "the Act" clarifies that the use of any land for the purposes of agriculture shall not be taken for the purposes of "the Act" to involve development of the land. A person's enjoyment of the land is simply ancillary to or part of that horticultural use of land.

The Council is unable to certify that any other use of the "Blue Land" that the applicant might have referred to, other than those described and referred to as "Use B" on this certificate, is

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lawful because: there is not a dwellinghouse on the land or the land is not within the curtilage or planning unit of a dwellinghouse; and the presented evidence does not demonstrate that any other use resulted in development and was continuous and uninterrupted for the requisite 10 year period before the date of the application. It is for these reasons that the Council is unable to certify that specifcially, the use of any part of the "Green Land" is lawfully used as a 'play area' where children play on and make use of fixed or installed equipment or apparatus; an outdoor food preparation and dining area; or any other use that might normally be considered to be ancillary or incidental to the enjoyment of a dwellinghouse.

FIRST SCHEDULE

(i) Use for any purpose incidental to the enjoyment of the dwellinghouses identified on the attached plan numbered RH 1 as Dormouse and Hedgehog Cottage.

(ii) Use for the purposes of horticulture or as a 'garden' to the extent that is limited to the cultivation, planting or growing of grass, trees, seeds, vegetables, fruit, plants, shrubs, bushes or flowers; and the tending to and enjoyment of such land by persons who have a private right to access and enter the land either because they are the land owners or because they rent residential property belonging to the owners ('enjoyment' in these respects includes sitting, walking, roaming, running and play that does not involve the use of installed or fixed apparatus or equipment).

SECOND SCHEDULE

(i) Land at Rock House Farm, Town End Road, Foxt, Staffordshire, ST10 2HN, which includes a paved patio that is limited and enclosed by a stone retaining wall, and that is shown edged red on the attached aerial photograph numbered RH 1.

(ii) Land at Rock House Farm, Town End Road, Foxt, Staffordshire, ST10 2HN that is shown edged blue on the attached aerial photograph numbered RH 2.

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

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NOTES

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

   (a) the refusal, or part 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