STAFFORDSHIRE
moorlands
DISTRICT COUNCIL
ACHIEVING · EXCELLENCE

Simon W. Baker B.Ed MBA MIMSPA
Chief Executive

Mr Rob Duncan
Rob Duncan Planning
70 Ferndale Road
Lichfield
Staffordshire
WS13 7DL

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

Application no: SMD/2018/0645

Determined on: 4th December 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 09/10/2018; only the use specified in the First Schedule ("the Use") 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 reason(s) for this determination are as follows:

1. *"The Use" 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.*

2. The Council is unable to certify that any other use of "the Land" that the applicant might have referred to, other than those described and referred to at the First Schedule on this certificate, is 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 Land" is used lawfully for any other use that might normally be considered to be ancillary or incidental to the enjoyment of a dwellinghouse.

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FIRST SCHEDULE

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.

SECOND SCHEDULE

Land near to Wetley Abbey Cottage, Abbey Road, Wetley Rocks, Staffordshire, ST9 0AS that is shown edged red on the attached plan numbered RD 1.

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

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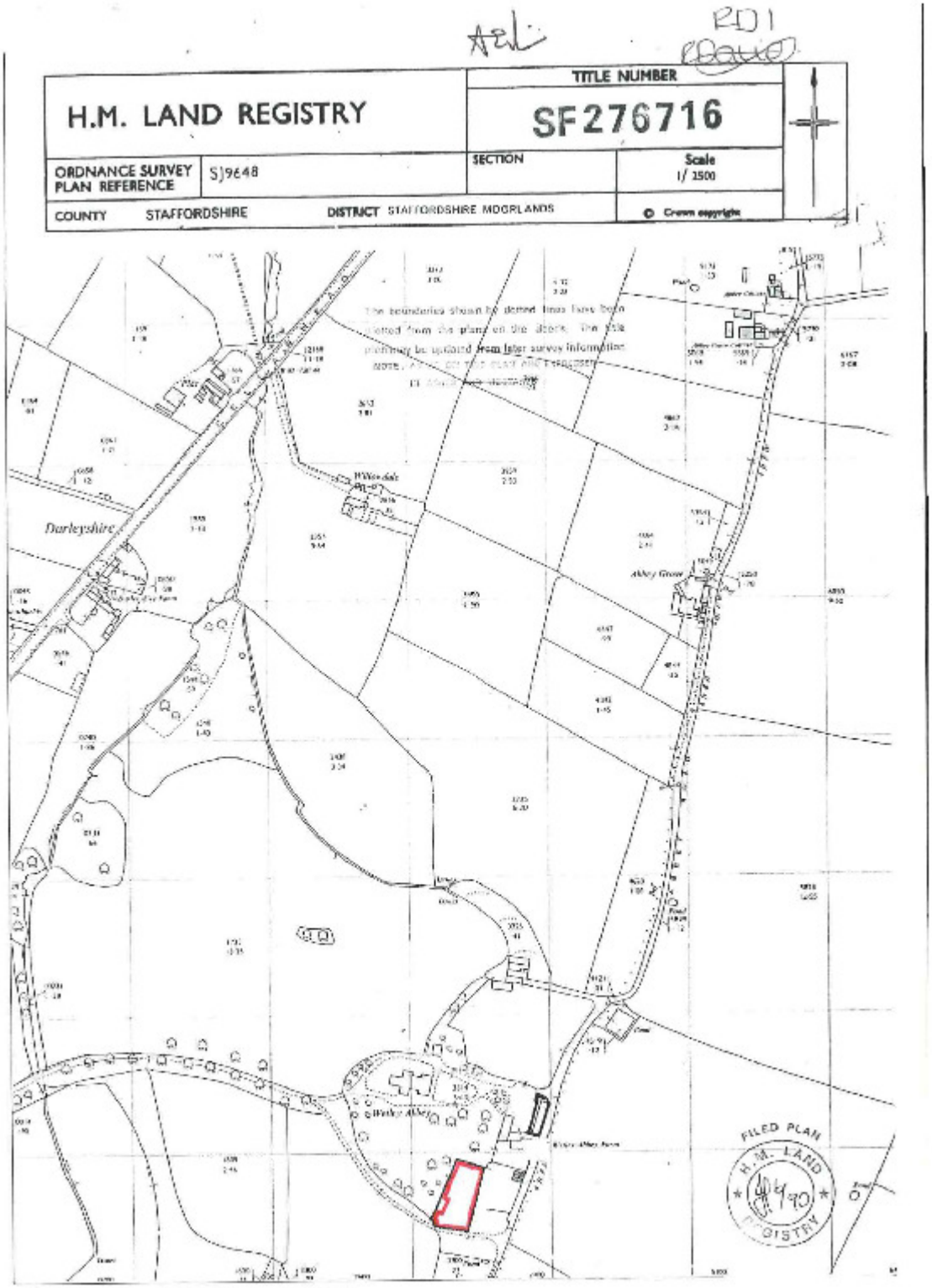
Chief Executive



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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