STAFFORDSHIRE
moorlands
DISTRICT COUNCIL
ACHIEVING • EXCELLENCE

Simon W. Baker B.Ed MBA MIMSPA
Chief Executive

Mr J Imber
JMI Planning
62 Carter Street
Uttoxeter
Staffordsire
ST14 8EU

Mr Harrison
Broad Oak Farm Leek Road
Kingsley Moor
Staffordshire
ST10 2EL

Application no: SMD/2018/0638

Determined on: 10/12/2018

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 03/10/2018; only the operations specified in the First Schedule ("the Structures") that have been constructed on the land specified in the Second Schedule ("the 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:

1. The Council is unable to certify as lawful any use of "the Land" or "the Structures" that has been described in the application as 'the exisitng use'. It is clear that inspite of how long ago "the Land" was first used for paintball activity and the extent to which it might have been used for those purposes over the years, it has also been used intermitently for clay pigeon shooting temporarily. Every time "the Land" was used for the temporary use of clay pigeon shooting, a material change of use and an act of development occurred. It follows that a return to or the resumption of the paint ball use after a temporary period of clay pigeon shooting would have itself been a new material change of use and another act of development requiring permission. The right conferred at s57(3) of "the Act" to resume, without planning permission, the 'normal' use of "the Land" after temporary use rights have been exploited, would not apply here to the paintball use becuase it began in contravention of planning control. The result of this therefore, in resepct of s.171B of the Act, is that the 'date of the breach' was reset and started afresh every time paintball uses resumed after the land was temporarily used for clay pigeon shooting. On the date of the application therefore, there had not been 10 years since the date of the last breach and the use was not immune from enforcement action.

2. It is clear that "the Structures" that are on "the Land", used for purposes associated with paintball activity, are the result of operational development that was complete more than

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4 years before the date of the application, but their introduction was initially part of a breach consisting of a material change of use when the land was first used for paintball activity. Powers at s.173 of "the Act" allow an enforcement notice that is directed toward a material change of use to also require structures to be removed for the purposes of either returning the land to its condition before the breach took place or remedying the injury to amenity that was caused by the breach. In this case however, for the reasons set out above relating to the intervention of temporary clay pigeon shoots, the existing breach and use of land as described in the application actually occurred only after "the Land" was last used for clay pigeon shooting, maybe just weeks before the application was submitted. The date of this breach therefore was well after "the structures" were first erected, they contributed to the condition of the land before the breach occurred and the injury to amenity imposed by "the Structures" were not caused by the breach. The Structures therefore must be immune from enforcement action, and therefore lawful, because no enforcement action could be taken that would require "the Structures" to be removed.

FIRST SCHEDULE

Structures in the positions shown on the attached aerial photograph numbered BF 2 edged with coloured outlines, comprising of:

i. metal frame and concrete sectional shed in the position shown edged green;
ii. collection of open shelters, fixed canopies, and cabins in the position shown edged blue;
iii. brick and tile builidng in the position shown edged yellow; and
iv. raised platforms with timber frames, cabins and enclosures in the position edged pink

SECOND SCHEDULE

Land at Broadoak Farm, Leek Road, Kingsley Moor, Staffordshire, ST10 2EJ that is shown edged red on the attached plan numbered JMI 1.

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

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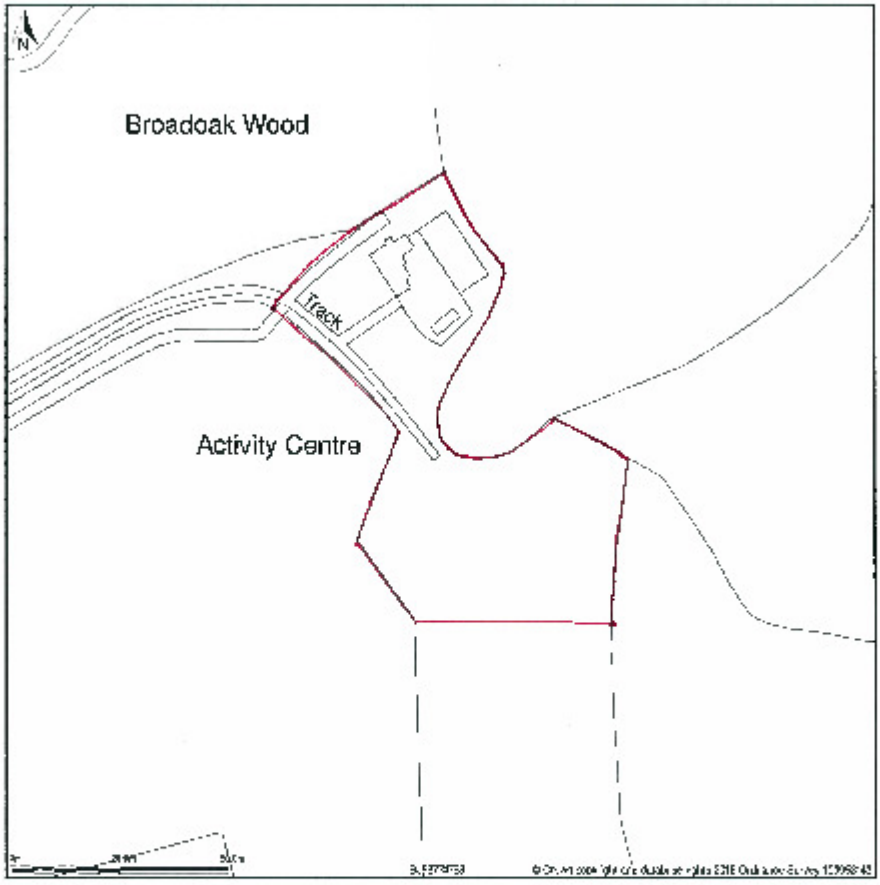
JMI - 1

Buy A Plan
UK's Fastest and Easiest Planning Site

Broad Oak Farm, ST10 2EL



Site Plan shows area bounded by: 386075.35, 347488.97 [illegible] at a scale of [illegible]. OS Grid Ref: [illegible]. This representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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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

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