

Report to be read in conjunction with the Decision Notice.							
Signed:	Officer:	MC	Date:	18/11/2025	Manager:	LH	Date: 18/11/25

Application Ref:	3/2025/0762	 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	N/A	
Officer:	MC	
DELEGATED ITEM FILE REPORT:		REFUSAL

Development Description:	Certificate of Lawfulness for the existing use of the property as a (C3) Dwellinghouse
Site Address/Location:	Fox Run Cottage, Clitheroe Road, Mitton, BB7 9PH

CONSULTATIONS:	Parish/Town Council
N/A	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
N/A	

CONSULTATIONS:	Additional Representations.
N/A	

RELEVANT POLICIES AND SITE PLANNING HISTORY:
Town and Country Planning Act 1990, Section 171(B); Section 191 National Planning Practice Guidance: Lawful Development Certificates
Relevant Planning History: 3/1988/0226 Change of use to holiday cottages <i>Approved with Conditions</i> 3/1987/0724 Change of use of barn to holiday cottages (reserved matters) <i>Approved with Conditions</i> 3/1987/0427 Creation of four self-catering holiday flats and one self-catering holiday cottage (outline) <i>Approved with Conditions</i> 3/1983/0457 Conversion of barn to dwellinghouse <i>Refused</i>

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

The application relates to an existing two and a half storey stone-built building located within rural area of Mitton, within the Forest of Bowland National Landscape.

Proposed Development for which consent is sought:

This is an application for a Certificate of Lawfulness to establish use of a building approved as holiday lets as a single dwellinghouse for a continuous period in excess of four years. It is the applicant's claim that the building has been continuously used as a private dwelling from 1st September 1993 through to the present day. As such, the applicant seeks confirmation of the above in the form of a Lawful Development Certificate.

Observations/Consideration of Matters Raised/Conclusion:

The lawfulness of the existing use in question rests upon a detailed assessment of the supporting information provided as part of the application in relation to the provisions of Section 171(B) of the Town and Country Planning Act (1990) (the Act).

Section 171(B) of the Act provides timescales whereby unauthorised development becomes immune from enforcement action and as such becomes lawful as follows:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

Within the submitted application form, the applicant is claiming that the works or activity began before 25 April 2024 and therefore the transitional measures whereby the The Levelling Up and Regeneration Act 2023 (section 115) amended the Town and Country Planning Act 1990 (section 171B) to update the time limits within which local planning authorities can take planning enforcement action against breaches of planning control do not apply.

Having reviewed the history for the site, the property is subject to a Section 52 agreement which was attached to planning ref: 3/1987/0427 and states that the dwelling cannot be occupied as a permanent residential dwelling or be occupied other than as holiday accommodation. As such, a certificate of lawfulness cannot be granted for the use of the property as residential unless the Section 52 agreement is modified or discharged through a Deed of Variation.

National Planning Practice Guidance states:

'The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is

entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Notwithstanding the fact that the property is subject to a legal agreement restricting the use of the property to holiday let accommodation, the applicant has submitted evidence in support of the application. In the interests of transparency, the LPA will go on to undertake an assessment of the submitted evidence.

Submitted Evidence:

- Site Location Plan (scale 1:1250)
- Assured Shorthold Tenancy Agreement dates 1 February 2025 (6 months fixed term)
- Council Tax Bill (refund for unoccupied and unfurnished property) dated 28 April 2025 from 1 April 2024 – 31 January 2025
- 2x Statutory Declarations

Assessment of evidence:

Firstly, a tenancy agreement has been submitted which shows a 6 months tenancy between the owner and the occupier dated from 1 February 2025. Whilst this evidence would demonstrate that the property has been occupied for residential for the period of 1 February to 1 August, it does not demonstrate continuous occupancy for a period of four years or more.

The submitted sworn declaration from the owner of the property states that the property was purchased on 15 June 2023. Paragraph 5 of the statement indicates that the property required renovation works which were carried out following completion of the purchase of the property over a period of several months. Paragraph 5 also confirms that the property was unoccupied during this time. The submitted Council Tax refund document dated 28 April 2025 also confirms this, as a refund is billed between the period of 1 April 2024 and 31 January 2025 which indicates that the property was unoccupied and unfurnished.

As such, this evidence suggests that the property has not been occupied as a residential property, without a break continuously and has been unoccupied for some time between 2024 and 2025.

In addition, whilst a statutory declaration states that a named person is not aware of Fox Run Cottage ever being used for holiday let purposes, no evidence has been submitted to support the claims that the property was occupied continuously as residential use prior to the current tenant moving in.

RECOMMENDATION:	That the certificate of lawfulness be refused for the following reason:
01:	The property known as 'Fox Run Cottage' is subject to a Section 52 Agreement which restricts the use of the property to holiday let accommodation only. As such, the use of the property as a (unrestricted) C3 residential dwellinghouse will breach the legal agreement and is not considered lawful.
02:	Even in the absence of a legal agreement, the applicant has failed to demonstrate that, on the balance of probability, the property has been occupied continuously for a minimum period of four years as a (unrestricted) C3 residential dwellinghouse. As such, the development is not

	considered lawful by virtue of the provisions of S171B(2) of the Town and Country Planning Act.
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