

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:	3/2025/0767	 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:	Gander Green 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. It is the applicant's claim that the property has been in continuous use as a private dwelling from 1st September 1990 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 drawing ref: A0.1
- Council Tax Bills dated 17 July 2023, 29 June 2023 and 15 March 2024
- United Utilities Water Bill dated 2 June 2025
- Electricity Bills dated 29 May 2025, 29 June 2025 and 30 July 2025
- 3 x Sworn Declarations

Assessment of evidence:

The applicant has submitted utility bills ranging from 2023 to 2025 which are addressed to both the applicant and another named person for the address of Gander Green Cottage (some of which spell the property as Ganders Green Cottage).

It is not considered that this information clearly demonstrates that the continuous use of the building as a dwellinghouse for a continuous period in excess of four years prior the date of this application. This is because the utility bills provided do not show a continuous period from four years prior to the date of this application, they only cover the period from 2023 which is within four years.

Three sworn declarations have also been submitted with the application. The first being from a named person who confirms that the applicant and themselves have lived at the property since they purchased it on 15 June 2023.

Paragraph 4 of the applicants declaration states that "An enquiry made of the Council Tax Department at Ribbles Valley Borough Council under a Freedom of Information Request (Ref 9627) revealed that the Property has been residential since April 1993 for Council Tax purposes."

Notwithstanding this, the applicant has not provided sufficient evidence to demonstrate that Council tax has been continuously paid on the property, without a break, and even if it were, the reliance on Council Tax alone is not considered to demonstrate continuous occupancy.

The declaration from a named person of Stable Cottage states that they own the adjacent property Stable Cottage and are not aware of the property being used for holiday let purposes. They confirm that they are only aware of Gander Green Cottage having been occupied as a residential property where the occupants reside as their home. They confirm that the applicant and another named person have lived in the property from June 2023 to present day and another named person lived at the property from 2017 to prior to the sale in June 2023.

The declaration from another named person of Higher House Farm confirms that they are a neighbour to the property and are not aware of the property being used for holiday let purposes. They confirm that they are only aware of Gander Green Cottage having been occupied as a

residential property where the occupants reside as their home. They confirm that the applicant and another named person have lived in the property from June 2023 to present day and another named person lived at the property as a tenant from 2017 to prior to the sale in June 2023.

It should be noted that no evidence has been submitted in the form of tenancy agreements or utility bills prior to the current owners purchasing the property which demonstrates continuous residential occupation of the property, to support the claims made in the supporting statements/declarations. It is not considered that supporting statements alone are sufficient to demonstrate that the property has been used continuously as a residential dwelling for a period of four years prior to the date of this application.

RECOMMENDATION:	That the certificate of lawfulness be refused for the following reason:
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| 01: | The property known as 'Gander Green 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. |