

Report to be read in conjunction with the Decision Notice.

Signed:	Officer:	MC	Date:	19/12/2025	Manager:	LH	Date:	22/12/25
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Application Ref:	3/2025/0933	 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	N/A	
Officer:	MC	
DELEGATED ITEM FILE REPORT:		REFUSED

Development Description:	Certificate of Lawfulness for the existing building operations associated with the conversion of barn and for the use as residential care accommodation (C2 use).
Site Address/Location:	Cow Hey Brook Barn Twitter Lane Bashall Eaves BB7 3NA

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:

3/2002/0165

CHANGE OF USE OF BARN TO FORM 2NO. HOLIDAY LET COTTAGES
Approved with Conditions

3/2001/0025

CONVERSION OF REDUNDANT AGRICULTURAL BARN TO FORM WORKSPACE AND LIVING ACCOMMODATION
Withdrawn

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

The property relates to an existing two storey converted barn located within the rural area of Bashall Eaves, within the Forest of Bowland National Landscape.

The building was originally granted planning permission as a holiday let under planning ref: 3/2002/0165. However, the submitted covering letter indicated that the building has been used for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)) since 2015.

Proposed Development for which consent is sought:

This is an application for a Certificate of Lawfulness to regularise the unlawful building operations which the application form states were substantially complete four years before the date of this application, as well as the use of the building as residential care accommodation (C2 use).

Submitted Evidence and drawings:

- Existing Elevations (drawing ref: C1131 021 Rev 0)
- Existing Floorplans (drawing ref: C1131 010 Rev 0)
- Existing Site Location Plan (drawing ref: C1131 000 Rev 1)
- Existing Site Plan (drawing ref: C1131 001 Rev 0)
- Tenancy agreement

Assessment of proposal:

The lawfulness of the existing use and building operations 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 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.

In this instance, it is the applicant's claim that the use or activity began on 2 November 2015.

Accordingly, the lawfulness of the existing building operations and use of the building as residential care accommodation (C2 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) (1) and (3) of the Town and Country Planning Act (1990) (the Act).

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.'

Building Operations

Condition 2 of planning permission ref: 3/2002/0056 restricted permitted development rights for the extension/alteration of the building and the building operations therefore required planning permission.

When comparing the submitted elevation drawings to the elevation drawings approved under planning ref: 3/2002/0056, there are a number of external alterations. These include:

- Insertion of additional first floor window to the west and east elevations
- Alterations to door size/design to west and east elevations
- Alterations to window stone surrounds to ground floor windows of north and south elevations

The application form states that the building operations were substantially completed more than four years before the date of this application. However, the applicant has not provided any evidence in support of the claim that the building operations took place more than four years before the date of this application. Satellite imagery from 2015, 2021 and 2022 shows part of the eastern elevation of the building and the outline of the front entrance door and the windows to this elevation. However, no information has been submitted, to demonstrate that the building operations to the western, northern and southern elevations were substantially completed four years prior to the date of this application. As such, the application lacks evidence to demonstrate, on the balance of probabilities that the building operations are lawful as per the time requirements of Section 171(B) (1) of the Town and Country Planning Act (1990) (the Act).

Use of building as residential care accommodation (C2 use)

The applicant has also applied for the use of the building as residential care accommodation (C2 use). It should be noted that a Unilateral Undertaking was signed and attached to planning ref: 3/2002/0056 which restricted the occupancy of the building to holiday lets only and not to allow the building to be occupied as permanent accommodation.

The applicant has provided a tenancy agreement between the owner and occupier which shows an initial 12 months tenancy commencing on 26 September 2017 and expiring on the 25 September 2018. Whilst this evidence would demonstrate that the property known as 'Out Barn' has been let to a company, corporate body or any association, church or similar organisation not covered by Part 1 of the Housing Act 1988, it does not demonstrate continuous occupancy for a period of 10 years prior to the date of this application and only covers the a period from 2017 to 2018.

In addition, the Councils records indicate that the application building is named 'Cow Hey Brook Barn'. Whilst the building was named 'Out Barn' under the previous application granted in 2002, no information has been provided by the applicant which explains the change between the property as submitted on the application form and the evidence (tenancy agreement).

Lastly, the tenancy agreement does not include any reference to the use of the building specifically relating to Use Class C2 for the purposes of residential care accommodation. The tenancy agreement states that the agreement is intended for a letting to a company, corporate body or any association, church or similar organisation not covered by Part 1 of The House Act 1988. Whilst the applicant may be a limited company, this does not confirm that the building has been used, continuously for a period of 10 years prior to the date of the application for C2 use as residential care accommodation.

Observations/Consideration of Matters Raised/Conclusion:

Limited evidence has been provided in support of the application in an attempt to demonstrate that the buildings and land subject to this application have been constructed and continuously used for a period in excess of four and ten years.

As confirmed in the National Planning Practise Guidance, the onus is on the applicant to demonstrate that the building operations were substantially complete four years prior to the date of this application and land has been continuously used for residential care (C2 use) purposes for a period of at least ten years and that the applicant's evidence must be sufficiently precise and unambiguous even in the absence of any contradictory evidence.

On the basis of the available evidence and the balance of probabilities, it is not considered that on the balance of probabilities, the building operations as shown on drawing ref: C1131 021 Rev 0 are lawful by virtue of Section 191 of the Town and Country Planning Act 1990. In addition, it is not considered that on the balance of probabilities, the use of the building and land as shown on drawing ref: C1131 000 Rev 1 and C1131 001 Rev 0 have been continuously used as residential care accommodation (C2 use) for a continuous period in excess of 10 years and therefore is not considered lawful by virtue of Section 191 of the Town and Country Planning Act 1990.

RECOMMENDATION:	That the certificate of lawfulness be refused for the following reason:
01:	The applicant has failed to demonstrate that, on the balance of probability, the building operations as shown on drawing ref: C1131 021 Rev 0 were substantially complete four years prior to the date of this application and therefore the Council is unable to accept they are lawful by virtue of Section 191 of the Town and Country Planning Act 1990.
02:	The applicant has failed to demonstrate that, on the balance of probability, the building and land to which the application relates (Cow Hey Brook Barn) as shown on drawing ref: C1131 000 Rev 1 and C1131 001 Rev 0 has been used for residential care accommodation purposes (C2 use) for a continuous period in excess of 10 years, and therefore the Council is unable to accept the use is lawful by virtue of Section 191 of the Town and Country Planning Act 1990.