

Report to be read in conjunction with the Decision Notice.								
Signed:	Officer:	LW	Date:	15/10/26	Manager:	LH	Date:	16/10/26

Application Ref:	3/2026/0653			 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	N/A	Site Notice:	N/A	
Officer:	LW			
DELEGATED ITEM FILE REPORT:				APPROVAL

Development Description:	Certificate of Lawfulness for existing use of an existing building as an independent residential dwelling with domestic curtilage.
Site Address/Location:	Annexe Higher Bolton Farm, Park Gate Row, Copster Green, BB1 9ET.

CONSULTATIONS:	Parish/Town Council
N/A	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
LCC Highways:	N/A
CONSULTATIONS:	Additional Representations.
N/A	

RELEVANT POLICIES AND SITE PLANNING HISTORY:
Town and Country Planning Act 1990 Section 191.
Planning and Compensation Act 1991 Section 171B Time Limits.
Relevant Planning History:
3/2011/0377: Proposed extended family accommodation/ annex, garage, workshop and office. Demolition of redundant former shippon and extension of residential curtilage (partly retrospective as the extension of residential curtilage took place more than ten years ago) (Approved).
3/2010/0482: Application for a Certificate of Lawfulness for the existing use of a dwelling which is subject to an agricultural occupancy condition in breach of planning condition no.2 of planning consent 3/1993/0479P (Approved).
3/1994/0244: Change from agricultural dwelling to dwelling with no restricted occupancy (Approved).
3/1993/0479: Change of use of barn to farm workers dwelling (Approved).

ASSESSMENT OF PROPOSED DEVELOPMENT:
Site Description and Surrounding Area:
The application relates to two-storey detached building situated adjacent to the residential property known as Higher Bolton Farm, Park Gate Row, Copster Green. Planning permission for the building was

granted in 2011 under application reference 3/2011/0377 for use as an extended family annex incorporating a garage, motorcycle workshop and office. As part of the permission, consent was also granted for a curtilage extension to incorporate both the land required for the siting of annex building and the adjacent buildings which were formally in agricultural use.

As originally approved, the ground floor of the annex building comprised a kitchen, dining area, WC, entrance porch, and motorcycle workshop/ garage. The first floor contained a double bedroom, bathroom, storage area, and office.

Planning permission 3/2011/0377 was subject to restrictions controlling both the occupation and use of the building. Conditions 5 and 6 state:

'5. The ancillary living accommodation contained in the building hereby approved shall only be occupied as an extended family unit to the property Higher Bolton Farm and shall not be used as a separate independent unit of residential accommodation.'

Reason: To comply with the terms of the application and because the creation of a separate residential unit in this location would be detrimental to the amenities and character of the area, contrary to Policies G1 and ENV3 of the Ribble Valley Districtwide Local Plan.'

'6. The garage, motorcycle workshop and office contained within the building hereby permitted shall only be used for those stated purposes. Those parts of the building shall not be used for any other purposes (including additional living accommodation such as lounge, kitchen, bedroom or bathroom) unless a further planning permission has first been granted in respect thereof.'

Reason: To comply with the terms of the application and with Policy H9 of the Ribble Valley Districtwide Local Plan as any additional living accommodation would be tantamount to the creation of an additional dwelling as opposed to the annex accommodation for which planning permission has been granted.'

Condition 4 of the planning permission 3/2011/0377 also removed permitted development rights from both Higher Bolton Farm and the approved annex building. The condition states:

'4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 (or any Order revoking or re-enacting that Order), any future extensions and/or alterations to the main dwelling Higher Bolton Farm, or to the building hereby permitted, including any development within the curtilage as defined in the schedule to Part 1 Classes A-E shall not be carried out unless a further planning permission has first been granted in respect thereof. Additionally, the garage for which planning permission was granted by 3/1993/0479/P shall not be constructed unless a further planning permission has also first been granted.'

Reason: As the construction of the previously approved garage, plus the building hereby approved and any further extensions or curtilage buildings that could otherwise be built as permitted development would represent overdevelopment of the site to the detriment of visual amenity, contrary to Policies G1 and ENV3 of the Ribble Valley Districtwide Local Plan.'

Proposed Development for which consent is sought:

The application seeks a Certificate of Lawfulness under Section 191 of the Town and Country Planning Act 1990 to establish the lawful use of the building as a separate self-contained dwellinghouse.

The applicant contends that the building has operated as a separate and independent planning unit, distinct from Higher Bolton Farm, for a continuous period in excess of ten years. It is therefore argued that the use has become lawful through the passage of time pursuant to Section 171B of the Act.

The application also seeks to regularise two window openings that were installed during the construction of the building but were not shown on the approved plans. These comprise an additional ground-floor window within the western elevation and an additional first-floor window within the northern elevation. The applicant contends that these alterations have been in situ for a period exceed four years and have consequently also become lawful through the passage of time.

In determining the application under Section 191, the responsibility rests with the applicant to demonstrate, on the balance of probabilities, that the claimed use and development is lawful.

National Planning Practice Guidance advises that, in cases involving existing uses and development, where the local planning authority has no evidence of its own, nor evidence from third parties, that contradicts the applicant's account or renders it less than probable, there will be no justification for refusing the application, provided that the evidence submitted is sufficiently precise, unambiguous and clear to demonstrate, on the balance of probabilities, that the claimed use is lawful.

Other Matters:

The principal issue is whether sufficient evidence has been submitted to demonstrate, on the balance of probabilities, that the building has been used as an independent residential planning unit, separate from Higher Bolton Farm, for a continuous period exceeding ten years prior to the date of this application, having regard to the provisions of Section 171B of the Town and Country Planning Act 1990.

Section 171B of the Act establishes the time limits after which breaches of planning control become immune from enforcement actions and, consequently, lawful. In relation to a material change of use, Section 171B provides that:

'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.'

The application also seeks to establish the lawfulness of two additional window openings installed within the building without the benefit of planning permission. In relation to operational development, Section 171B provides that enforcement action cannot be taken after the expired of four years from the date on which the operational development was substantially completed.

In support of the application, the applicant has submitted a Planning Statement together with two signed Statements of Fact. These documents state that the building was completed in 2012 and has been occupied as a detached family dwelling with an integral garage by the applicants, who are the daughter and son-in-law of the occupants of Higher Bolton Farm, for approximately 13.5 years.

The submitted evidence states that the applicants moved into the property in January 2013 and have occupied it continuously as their family home since that time. It is further stated that, in 2015, the first-floor office was converted to form two additional bedrooms, resulting in the first floor comprising three bedrooms and a bathroom. It is contended that this arrangement has remained in place for approximately 11.5 years.

In relation to the ground-floor garage/ workshop, the applicant explains that the space has been used solely in connection with a personal motorcycle hobby and that no business activity has ever operated from the premises. The statement notes that, following occupation of the building, the applicants contacted the council tax valuation officer regarding the property's status for council tax purposes. It is stated that whilst the building was subsequently assessed as a dwelling for council tax purposes, the office and workshop elements were included within the non-domestic rating list despite the absence of any commercial activity. However, as these elements were given a rateable value of £0, the matter was not pursued further.

The supporting information further explains that, although the original intention was to provide ancillary accommodation for the applicants, their personal circumstances changed following occupation. As a result, the building has since functioned as an independent family home occupied by the applicant's and their children, rather than as accommodation ancillary to Higher Bolton Farm.

The applicants state that neither occupant is employed in connection with the farm and that they live independently despite their familial relationship with the occupants of Higher Bolton Farm. The building is said to contain all facilities required for independent day-to-day living and to benefit from its own postal address, private access, garden area and parking provision. The submitted evidence also indicates that the property has separate gas, electricity, water, heating and internet services/ meters, together with an independent council tax assessment and home insurance policy. It is further asserted that the occupants do not rely upon Higher Bolton Farm for living accommodation, financial support, utility services or employment. On this basis, the applicant argues that the building functions as a separate dwellinghouse rather than accommodation ancillary to the main dwelling.

Additional evidence has been provided in the form of a Declaration of Trust completed in March 2016 between the occupants of Higher Bolton Farm and the applicants. The declaration records that the building was constructed at the applicant's expense and identifies them as the beneficial owners of the annex building and associated plot. The accompanying plan delineates separate garden and parking areas associated with the respective properties.

With regards to the two unauthorised window openings, the applicant states that these were installed during the original construction of the building and have therefore remained in place since the development was completed in 2012.

The Planning Statement is accompanied by a range of documentary evidence intended to substantiate the claimed use and development. This includes photographs showing the residential occupation of the building and its construction, home insurance documentation dated between 2021 and 2026 identifying the property as containing three bedrooms, council tax correspondence dated November 2014 and February 2015, council tax bills dated February 2015 and March 2026, non-domestic rates bills dated April 2015 and March 2026, photographs of the building and its utility infrastructure, the Declaration of Trust and associated site plan, and a Building Regulations approval dated November 2011. It is noted that all the submitted documents are addressed to the Annex and its occupants and not the main dwellinghouse at Higher Bolton Farm.

Taking into account the submitted supporting information and in the absence of any other evidence to suggest otherwise, it is considered, on the balance of probabilities, that the building has been used as an independent dwelling for a period in excess of 10 years and that the insertion of the additional window openings was substantially completed more than 4 years ago.

Observations/Consideration of Matters Raised/Conclusion:

On the basis of the evidence submitted and on the balance of probabilities, it is considered that the annex has been used as an independent dwellinghouse for a continuous period exceeding 10 years. Its use is therefore lawful pursuant to Section 191 of the Town and Country Planning Act 1990.

It is also considered that the additional window openings were substantially completed more than four years ago and are therefore immune from enforcement action through the passage of time.

As such, for the above reasons and having regard to all material considerations and matters raised, the application is recommended for approval.

RECOMMENDATION:	That the Certificate of Lawfulness be granted.
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