

DELEGATED DECISION REPORT

HPK/2026/0024
Valid 21/01/2026

LYDIATE FARM ,
BRIARGROVE ROAD ,
BIRCH VALE , DERBYSHIRE
SK22 1AY

CERTIFICATE OF
LAWFULNESS FOR EXISTING
BUILDING OPERATIONS TO
REBUILD AND RENOVATE A
BARN
(CERTIFICATE OF
LAWFULNESS - EXISTING)

DESCRIPTION OF SITE

The application site relates to a detached former agricultural building, converted to ancillary living accommodation located at the domestic property known as Lydiate Farm, situated in the Green Belt. The ancillary building has a swimming pool with associated shower room and plant room at ground floor. At first floor two bedrooms have access to a balcony and centrally there is a living/kitchen area, with separate bathroom and hallway area. A shed is appended to the building, as shown on the existing plans, accessed via the garden.



The property has recently been sold.

The barn is physically separate from the main house but is fully self-contained.

BACKGROUND AND RELEVANT HISTORY

This application seeks to regularise the operational development (comprising elevational rebuilding works of part of the barn, reroofing works, the insertion of new windows and doors, the creation of a balcony with balustrading and addition of a side

shed extension) on the barn used for ancillary accommodation, that are deemed immune from enforcement action, due to the passage of time (4 years*).

This application does not relate to the use of the barn, only the building operations undertaken.

A separate retrospective Planning Application HPK/2025/0084 was submitted in relation to seeking permission for the use of the barn, into a self-contained annex to Lydiate Farm, including swimming pool and balcony.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2026/0024	Certificate of lawfulness for existing building operations to rebuild and renovate a barn	Pending
HPK/2025/0083	Certificate of Lawfulness for proposed use to refurbish the barn and construct a swimming pool to the ground floor, and accommodation to the first floor	Application Withdrawn
HPK/2016/0322	Construction of a 20m x 40m menage, change of use from grazing Land	Approved

CONSULTATIONS

Publicity

Site Notice expiry date: n/a

Neighbour re-consultation period ends: 13/02/2026

Public Comments

No comments received during the determination period

Town / Parish Comments

No comments received during the determination period

DCC Highways

No comments received during the determination period

LEGISLATION

Section 191 of the Town and Country Planning Act 1990 provides for the Certificate of Lawfulness of Existing Use or Development (CLEUD). It allows any person to apply to the local planning authority for a certificate confirming that an existing use of land, an operational development, or an activity carried out in breach of a planning condition is lawful for planning purposes.

Under Section 191, a use or development is considered lawful if no enforcement action may be taken in respect of it. This may be because planning permission was not required, or because the time limit for taking enforcement action has expired.

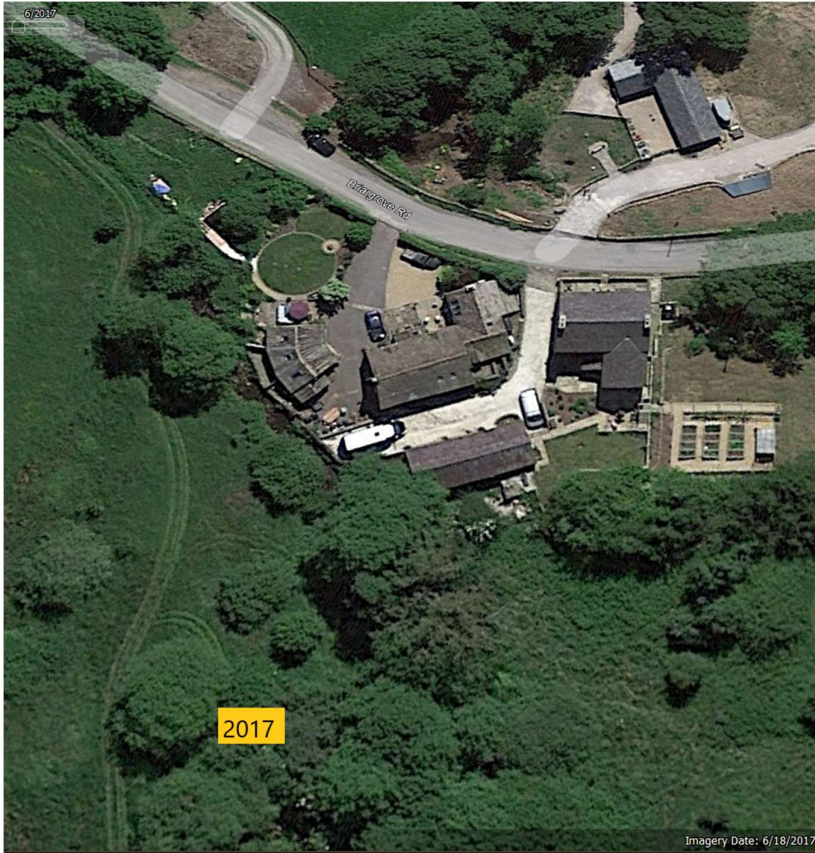
The development must also not be subject to an enforcement notice that is currently in force.

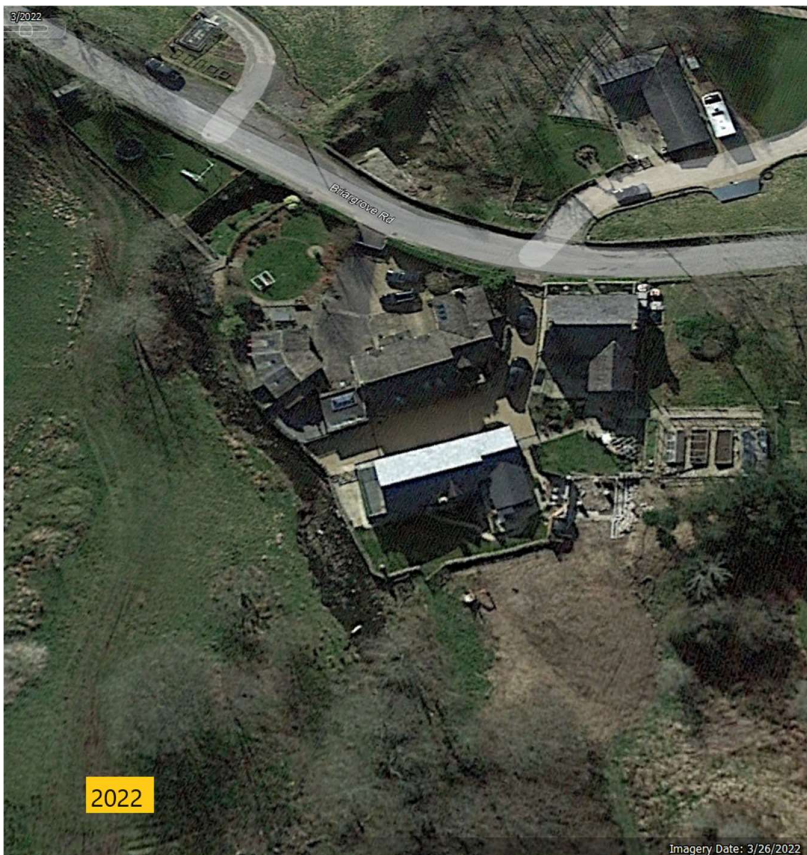
The purpose of the certificate is to provide formal confirmation from the local planning authority that the use, operation, or activity described in the application is lawful at the date the application is made. The certificate therefore gives legal certainty to property owners, developers, or purchasers about the planning status of land or buildings.

A certificate issued under Section 191 only confirms the lawfulness of the development or use for planning purposes at the time of the application. It does not grant planning permission, nor does it remove the need to comply with other legal requirements such as building regulations or listed building consent where these apply.

AERIAL RECORDS (Source: Google maps)









OFFICER COMMENTS

Section 191 of the Town and Country Planning Act 1990 allows any person to apply to the local planning authority for a certificate confirming that an existing use or operational development is lawful for planning purposes. For operational development, Section 171B(1) of the Act establishes that enforcement action may not be taken after the expiry of four* years beginning with the date on which the operations were substantially completed. Where sufficient evidence demonstrates that operational development has existed for a period exceeding four years without enforcement action being taken, the development becomes immune from enforcement and is therefore lawful for planning purposes.

This application seeks confirmation that operational development undertaken to the barn is lawful on the basis that the works were substantially completed more than four years prior to the submission of the application.

The aerial photos effectively show a rebuild of most of the barn. The supporting planning statement is seeking approval of operational development comprising elevational rebuilding works of part of the barn, re-roofing works, the insertion of new windows and doors, the creation of a balcony with balustrading and addition of a side shed extension. Internally they comprised the creation of a swimming pool and gym at ground floor level and ancillary living accommodation at first floor level.

A statutory declaration from the previous owner of Lydiate farm, and dated photos are provided as evidence that the works were substantially completed in 2019. On the balance of probabilities the evidence demonstrates that the development described in the application has occurred and has continued for the relevant period.

The evidence submitted in support of the claim that the works to the barn were substantially completed more than four years prior to the date of the application, demonstrating the timing and completion of the operational development. The evidence is considered sufficiently precise and unambiguous to demonstrate that the works had been completed and were in their current form for a continuous period exceeding four years.

*Note: * The 10-year rule in planning changed with the introduction of the Levelling-up and Regeneration Act 2023, which came into effect on 25 April 2024. This change means that all breaches of planning control now fall under the 10-year rule, simplifying the enforcement process for local authorities. Previously, the 4-year rule applied to certain types of development, but this rule is now obsolete for most breaches that occurred on or after this date. **This breach occurred before 25 April 2024, so assessed under the 4 year rule.***

CONCLUSION / PLANNING BALANCE

Having considered the information provided, officers are satisfied that the evidence demonstrates, on the balance of probabilities, that the operational development to

the barn were substantially completed more than four years prior to the date of the application.

In light of the above, and having regard to the provisions of Sections 191 and 171B of the Act, officers consider that the operational development is now immune from enforcement action and is therefore lawful for planning purposes. As such, it is recommended that a Certificate of Lawfulness of Existing Development be granted for the operational development described in the application.

OFFICER RECOMMENDATION: APPROVE

Case Officer: P. Twigg

Recommendation Date: 6.3.2026

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council