

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	261342
Site Address:	Land Used For Storage, Cheriton Farm, Jouldings Lane, Farley Hill, Wokingham
Expiry Date:	7 August 2026
Site Visit Date:	30 June 2026
Proposal: Application for a certificate of existing lawful development for the use of land for waste management and recycling, including the use of a building for ancillary material storage.	

PLANNING HISTORY

Application No.	Description	Decision & Date
090077	Application for agricultural prior determination for the erection of building to house beef cattle.	Approved 16/12/2009

INFORMATION PROVIDED

By the applicant:

- Invoices and Delivery notes from 2010-2024
- 4no. Statutory Declarations
- Historic Aerial Photography
- Time stamped photographs of the application site and its use
- Email from landowners confirming use of site since 2010 by the applicant

By the Council:

- Details related to the applicant's business rates account with the Council
- Site visit photos dated 30th June 2026

By third parties:

- 1no. anonymous report from a local resident (see below)

LEGISLATION

Town and Country Planning Act 1990 (as amended) (TCPA)

Section 57 requires that planning permission is needed for development of land.

Section 55 provides that development includes any *material change in the use* of land.

Timescale

Section 171.B(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 ten years beginning with the date on which the operations were substantially completed. However, The Act includes transitional provisions which provide that, where operational development was substantially completed before the 25 April 2024, the 4-year period will continue to apply.

Section 171B(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 ten years beginning with the date of the breach.

Section 171B(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.

Section 171B(4)(b) does not prevent the taking of further enforcement action within 4 years if the local planning authority have taken or purported to take enforcement action in respect of that breach.

Section 191(1)(a) provides that if any person wishes to ascertain whether any existing use of a building or other land is lawful, he may make an application for that purpose to the local planning authority specifying the land and describing the use, operations, or other matter. As Section 191(1)(a) is written in the present tense, it is plain that the use must exist at the time of the application.

For the purpose of the 1990 Act s.191(2) defines operations as 'lawful' if:
no enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

CASE LAW

The Courts have held in *Gabbittas v Secretary of State for the Environment and Newham LBC* [1985] JPL 630 that the relevant test of the evidence on such matters is "the balance of probability". The Courts have also held that the applicant's own evidence does not need to be corroborated by "independent" evidence to be accepted. If the Local Planning Authority have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less 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."

In considering applications for a Certificate the guidance given by the High Court in *Panton and Farmer v Secretary of State for the Environment, Transport and the Regions and Vale of White Horse D.C.* [1999] JPL 461 is of value.

Three questions need to be answered. Firstly, "When did the material change of use specified in the application occur?" To be lawful, this would need to be before 1 July 1948, by 31 December 1963, or at a date at least 10 years prior to the current application.

Secondly, if the material change took place prior to those dates, has the use specified in the application been lost by operation of law in one of three possible ways, namely

by abandonment, the formation of a new planning unit, or by way of a material change of use, be it by way of implementation of a further planning permission or otherwise.

Finally, if the decision maker is not satisfied that the description of the use as specified in the application accurately describes the nature of the use, the decision maker must modify/substitute each description so as to accurately describe the nature of the material change of use which occurred.

The Panton case was considered further by the Courts in *Secretary of State for the Environment, Transport, and the Regions v Thurrock BC* [2002] EWCA Civ 226. In this case the Court of Appeal considered that the rationale of immunity from enforcement was that throughout the whole of the ten-year period of unlawful use the Local Planning Authority, although having the power to take enforcement action, had failed to do so. So, if at any time during the relevant period the authority would not have been able to take enforcement proceedings in respect of the breach (because for example the unauthorised use had temporarily ceased) then any such period could not count towards the ten-year period which gives rise to immunity.

The effect of the decision in *Thurrock* is to require a far more stringent test of immunity than had previously been thought following the decision in *Panton*. In particular, the decision means that if an unlawful use ceases and is then recommenced the ten-year period required for immunity begins on the act of recommencement. For an unlawful use to obtain immunity from enforcement it has to be exercised continually and without significant interruption for the whole of the ten-year period.

The question is therefore whether an interruption of an unlawful use is enough to defeat any claim of immunity from enforcement proceedings. A short period may be regarded as a continuing use; a longer period may not. The Courts have held that this question is a matter of fact and degree for the decision maker in every case.

APPRAISAL

Proposal Description:

This application is for a certificate of existing lawful use to regularise the use for the use of land for waste management and recycling, plus the use of a building for ancillary material storage.

The submitted information indicates that the use of the land and building for such purposes has occurred for a period of more than 10 years and is therefore immune from formal enforcement action. Therefore, from the date of the application's submission, the latest relevant date is **5th June 2016**.

Site Description:

The application site consists of a storage barn in the main Cheriton Farm yard, plus a larger, narrow area of land to the north-west, primarily used for the breaking up and outdoor storage of materials associated with the business. There is a dramatic change in levels between the farmyard and the land to the north-west, resulting in a legible, natural barrier between the application site and the adjacent agricultural fields.

The site is located to the bottom of Jouldings Lane, a narrow rural track located in the designated Countryside. The site's frontage is characterised by the Cheriton Farmhouse, reaching the main farmyard as you travel further eastwards into the site.

Evidence Submitted by the Applicant:**Invoices and Delivery notes from 2010-2024**

The applicant has provided a total of 19 invoices and delivery notes, primarily associated with the purchase of plant and other equipment associated with the use on site. These include a commercial crusher, excavator, screener, digger and other smaller elements of equipment such as oil filters and bolts for the larger equipment listed above.

All 19 invoices/notes provided are all addresses to Maslin Haulage, who are the current applicant that claim to have been operating at the site since 2010. Delivery addresses vary:

- A property listed in Devon
- A property listed in Finchampstead
- Cheriton Farm

The applicant has clarified that the addresses not associated with Cheriton Farm are personal home addresses that were supposed to be used for billing addresses only and were mistakenly referenced as the delivery addresses on the invoices.

4no. Statutory Declarations***Statutory Declaration from Eileen Woodjetts:***

- This person owns Cheriton Farm, including the land utilised by Maslin Haulage for the use associated with this application.
- They confirm that Maslin Haulage started renting the land in 2010, from then until present they have continuously undertaken screening and crushing activities on the land as part of their business operations.
- They state that these activities have been carried out openly and as normal and expected part of the use through Maslin Haulage's occupation.
- Finally, they state that the use of the land for screening and crushing is therefore not a recent development but is consistent with the historic use of the site by both Maslin Haulage and previous occupiers.

Statutory Declaration from Stuart Fruen:

- This person began working for Maslin Haulage in 2016 and have been involved in the company's operations since that time.
- During their employment, their duties included driving lorries as well as operating excavators in connection with the company's crushing and screening activities.
- Based on their involvement with Maslin Haulage since 2016, they confirm that crushing and screening activities have been a regular and established part of the business operations carried out at the yard throughout that period.

Statutory Declaration from Danny Gray:

- This person owns Grey's Plant and Machinery and have worked in this industry for many years.

- In 2014, they first visited the yard at Cheriton Farm to inspect an old piece of machinery used for recycling materials which was owned and operated by Maslin Haulage.
- Throughout the period from 2014 to present day, they have consistently observed crushers and screeners being present at the site and available for use as part of Maslin Haulage's operations.
- Based on their regular attendance at the site over a number of years, it is their understanding that the crushing and screening of materials has formed an established and ongoing part of the business activities carried out on site.

Statutory Declaration from James Kent:

- This person is the co-owner of R&J Services who have worked closely with Maslin Haulage since the company first started and have had regular dealings with them throughout that time.
- When Maslin Haulage obtained the yard in 2010, they worked closely with them in relation to the operations carried out at the site. They were subcontracted by Maslin Haulage to undertake crushing and screening activities at the yard and have first hand knowledge of those operations being carried out there.
- Through their involvement at the site, they regularly observed and participated in crushing and screening operations and was familiar with the machinery used for those purposes. They continue to work closely with Maslin Haulage to this day.
- They have also hired machinery from Maslin Haulage on various occasions over the years as part of their own business activities.

Historic Aerial Photography

Google Earth Image 31st December 2010



Operators cabin

Tenancy had started by this point, with operations originally starting in and around hay bales

Google Earth Image February 16th 2014

Poor Resolution, although stockpiles can be seen around the edges of operations yard, which is clearly defined



Operators cabin

Vehicle reception area

Google Earth Image 25th March 2017

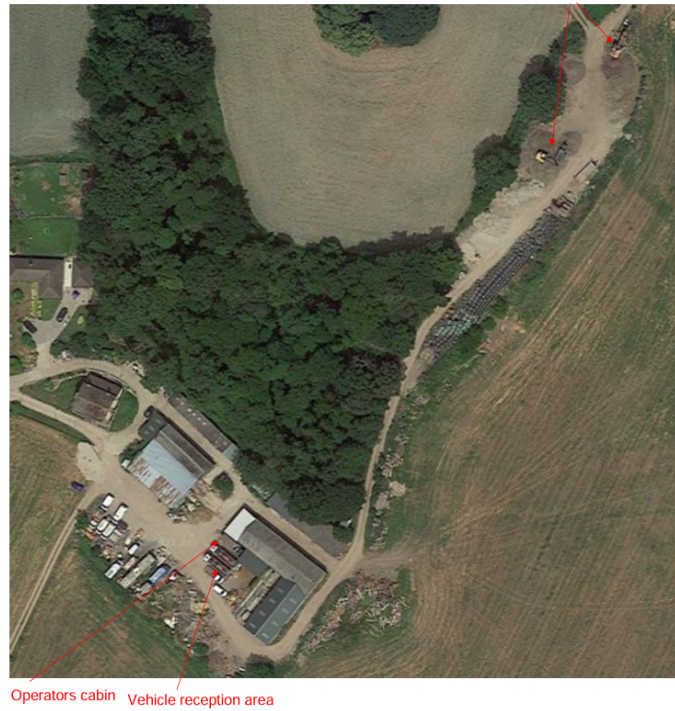
Mobile Plant



Operators cabin

Vehicle reception area

Google Earth Image 23rd June 2018



Google Earth Image April 15th 2020



Google Earth Image 16th July 2021



Operators cabin Vehicles in waste reception area

Google Earth Image 27th February 2022



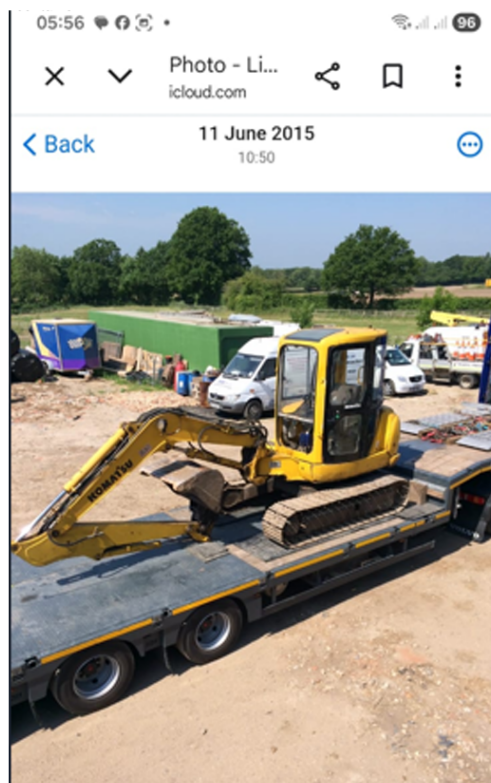
Operators cabin Vehicles reception area

Google Earth Image 9th May 2025 (most recent)



Time stamped photographs of the application site and its use

Photograph of Komatsu Digger in southern part of the site 2015, looking south towards distinguishable green storage container
The green storage container is still present today, as shown in photographs from 05/06/26 appendix.



Photograph of operational area with plant and stockpiles. Time stamped with location.
Looking toward distinguishable tree on western boundary

Photo - Li...
icloud.com

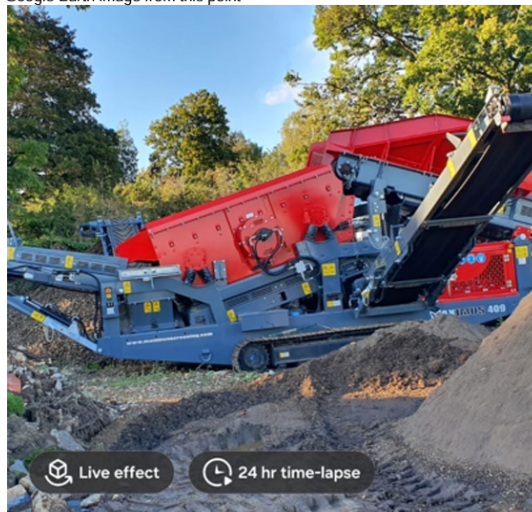
< Back

6 July 2017
Reading - Farley Hill · 16:21



There are numerous invoice records for ultra deck screening equipment

Photograph of replacement Hitachi Digger in operations area. Time stamped
Time stamped photo of Maximus Equipment. Equipment looks new, and there
is an invoice from July 2019 for this plant. The plant can be seen in every
Google Earth image from this point



Wednesday, 2 October 2019 · 17:06

Edit

20191002_170649.jpg

/Internal storage/DCIM/Work

SM-G975F

3.11 MB | 4032x1908 | 8MP

ISO 50 | 26mm | 0.0ev | F2.4 | 1/280 s

Photograph of operational area with plant and stockpiles. Time stamped
with location

There are invoices relating to both the Volvo Digger and Maximua recycling plant



Time stamped photo of Maximus Equipment towards distinguishable trees on western boundary of operations yard
Photo of plant taken towards western boundary with distinguishable trees in background



Tuesday, 24 March 2026 · 17:09

[Edit](#)

20260324_170902.jpg

/Internal storage/DCIM/Camera

Galaxy S25 Ultra

Wide-angle lens · 23mm

3.11 MB | 4000x1848 | 7MP

ISO 80 | 23mm | 0.0ev | F1.7 | 1/180 s

Email from landowners confirming use of site since 2010 by the applicant

This email is addressed to an Enforcement Officer from Wokingham Borough Council. The email was sent by Mr and Mrs Woodjetts, the landowner, confirming that Maslin Haulage had been trading from the site since 2010.

This email was in relation a recent enforcement case (RFS/2026/091379) which involved complaints regarding recycling plant & concrete crushing at antisocial hours of the day and ultimately led to the submission of this certificate application.

The email is however undated, and the LPA do not have a record of receiving this correspondence. Therefore, very limited weight is applied to this evidence in the overall balance of probabilities.

Evidence Submitted by the Council:

Details related to the applicant's business rates account with the Council

The Case Officer inquired with the Council's revenues team to understand whether Maslin Haulage have a registered business account for their operations at Cheriton Farm.

The Council's Revenues Officer confirmed that Maslin Haulage are registered at Cheriton Farm, but only since 5th May 2019.

Site visit photos dated 30th June 2026







Evidence Submitted by Third Parties:

An anonymous objection has been received from a local resident. They state the following:

- They have lived on Jouldings Lane for most of their life
- The applicant has not been doing waste management and recycling 10 years prior to the application.
- The applicant has alternatively been doing a storage use for over 10 years.
- Photos do not provide evidence as they just show stored diggers/vehicles and material. They cleared the site before the enforcement visit so no issues could be seen.
- The waste management has only been relatively recent with a new tenant and they started making noise Environmental Health complaints when this started.

As this objection is anonymous, the Local Planning Authority can only apply limited weight to this evidence when determining the certificate.

Assessment:

All four statutory declarations received provide a consistent and coherent timeline regarding the business' operations at Cheriton Farm since 2010 to present day and hold significant weight in the determination of this certificate. One of the declarations is also from the owner of Cheriton Farm themselves, who have a direct outlook onto the main farmyard and the associated business operations.

In terms of historic aerals, there is a clear change in the intensity of the waste management and recycling operations on site. In 2010, when the site was first rented to Maslin Haulage, the business operations were concentrated in the farmyard. However, in aerals from 2016 and 2017, there is a clear change in the use of the main storage area to the north-east of the farmyard, with legible areas of stacked materials and plant equipment (diggers, excavators etc) seen on the land. Hay storage is also visible on the aerals, but this is located outside of the application red-line for this certificate.

Aerals from 2018, 2020, 2021, 2022 and 2025 are all consistent with the aerals from 2016/2017, with each aerial showing the north-eastern area of the site in active use for the storage of broken-down materials. Various vehicles and plant equipment are also visible on each aerial.

The invoices and delivery notes submitted are all addressed to Maslin Haulage, albeit with varying delivery addresses. As explained above, the applicant has clarified that that the addresses not associated with Cheriton Farm are personal home addresses that were supposed to be used for billing addresses only and were mistakenly referenced as the delivery addresses on the invoices. The LPA has no evidence on the contrary to dispute this.

The plant equipment listed on the invoices also link with the time stamped photographs of the equipment seen on site. These photos are dated between June 2015 and March 2026, and it is clear from the photos that the plant is located on the application site, evidenced by consistent visual cues (notable trees, changes in levels) seen by the Case Officer on their visit to the site on 30th June 2026.

With regards to the Case Officer's visit to the site, the main operations area to the north-east of the farmyard was in active use with plant visible on the site. The context and use of this area of the site have not noticeably changed when compared to historic aerals and photographs dating back to 2015.

It is however noted that upon inspecting the material storage building located within the farmyard, approximately only two thirds of the building was in active use for this purpose. This was confirmed by the applicant on site, who stated that the other third of the building is used for agricultural storage. The LPA has no demonstrable evidence to demonstrate that this building has not been used for material storage in excess of 10 years.

On the contrary, the Council's Revenues team clarified that Maslin Haulage have only had a business rates account registered at Cheriton Farm since 5th May 2019. Whilst acknowledged, this does not automatically imply that the business did not operate prior to this date, as seen within the other evidence provided with this application.

Lastly, the objections received from an anonymous local resident are acknowledged. The anonymity of the objection however attracts limited weight in this certificate's assessment and does not demonstrably override the evidence provided by both the applicant and the LPA.

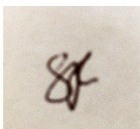
Conclusion:

The relevant test for Lawful Use is the 'balance of probability'. Based on the evidence provided and the Local Planning Authority's own information, it is considered to have been demonstrated that the use of land for waste management and recycling, including the use of a building for ancillary material storage has been occurring for a period in excess of 10 years. This certificate is therefore recommended for approval.

RECOMMENDATION / CONCLUSION

The relevant test for Lawful Use is the 'balance of probability'. Based on the evidence provided and the Local Planning Authority's own information, it is considered to have been demonstrated that the use of land for waste management and recycling, including the use of a building for ancillary material storage has been occurring for a period in excess of 10 years. This certificate is therefore recommended for approval.

Date:	23 July 2026
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Recommendation agreed by: (Authorised Officer)	
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Date:	24.7.26
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