

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	251993
Site Address:	Stokes Cottage, Binfield Road, Binfield, Wokingham, RG40 5PR
Expiry Date:	22 October 2025
Site Visit Date:	3 October 2025
Proposal: Application for a certificate of existing lawful development for the erection of Building B ('the Barn') and the use of the land and buildings (A, B & C) including associated hardstanding for vehicle maintenance with ancillary vehicles storage and office space in association with a vehicle servicing business.	

PLANNING HISTORY

Application No.	Description	Decision & Date
33895	Extension to north-west end of property	Refused – 01/11/1989
28597	Rear two storey extension and first floor extension over garage to provide extra living accommodation	C/A – 20/11/1987
220/71	Alterations, additions and modernisation of Stokes Cottage	C/A – 13/05/1971

SITE DESCRIPTION

The application site comprises a parcel of land to the rear of Stokes Cottage, an early 20th century dwellinghouse located within a cluster of predominantly agricultural and commercial development off Binfield Road to the north-east of Wokingham. The site benefits from a separate vehicular access and comprises 3no. single storey buildings, a gravel surfaced area and concrete surfaced area used in connection with a vehicle serving company.

The site falls within designated countryside outside of settlement limits. The site also falls within an identified Bat Roost Habitat Suitability Area and Great Crested Newt Impact Risk Zone (Amber) but is not subject to any other wildlife or habitat designations. There are no listed buildings at the site and the property is not within 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order 2015)).

LEGISLATION

Town and Country Planning Act 1990 (as amended)

Section 55(1) of the Town and Country Planning Act 1990 (as amended) defines development as "the carrying out of building, engineering, mining or other operations

in, on, over or under land, or the making of any material change in the use of any buildings or other land.”

Section 57 of The Town and Country Planning Act 1990 (as amended) requires that planning permission is required for the carrying out of any development of land.

Section 171B (1) states that 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 (formerly four years) beginning with the date on which the operations were substantially completed.

Section 171B (3) states that in the case of any other breach of planning control, no enforcement action may be taken after the end of ten years beginning with the date of the breach.

*Regarding the above, Section 5 of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 states that the amendments made to the 1990 Act by section 115 of the 2023 act (time limits for enforcement) do not apply where in respect of a breach referred to in section 171B(1), the operations were substantially completed before the day on which that section comes into force (25/04/2024). This means that where operational development has been carried out before 25/04/2024 **the four year rule still applies** (except where the operations has facilitated a material change of use).*

Section 191 deals with applications for Certificates of Lawfulness of existing development, and the authority’s duty to determine them.

Section 191(1)(a) provides that if any person wishes to ascertain whether any existing use of a building or other land is lawful they 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:

- (a) 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*
- (b) 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* [1985] JPL 630 that the relevant test of 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 in order to be accepted. If the Local Planning Authority has 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 that 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, or 4 years for operational development or use of a building as a single dwelling.

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 properly describes the nature of the use, the decision maker must modify/substitute each description so as to properly describe the nature of the material change of use which occurred.

INFORMATION PROVIDED

By the applicant:

- Lawful Development Certificate Application Form:
 - States that the use applied for begun on 31-12-2012.
 - States that the building works associated with Building 'B' were substantially completed more than 10 years ago.
 - States that there has been no interruption to or material change of use of the land since the start of the use applied for.
- Planning Statement:
 - States that the applicant purchased the wider site in 2007 and immediately started to run his company, National Vehicle Servicing (NVS), from the site utilising the existing hard standing for car storage, Building 'C' for general storage and Building 'A' as their office.
 - Building 'B' was constructed in 2012 and is used as a workshop in association with NVS.
 - States that the use applied for has been continuous for in excess of 17 years.
- Statutory Declaration of S J Marsden (the applicant) dated 01/08/2025.
- Statutory Declaration of R Marsden dated 01/08/2025.
- Statutory Declaration of D Quevillart dated 01/08/2025.
- Statutory Declaration of P Fitzgerald dated 01/08/2025.
- Statutory Declaration of A Gibbon dated 31/07/2025.
- Statutory Declaration of E Clark dated 31/07/2025.
- Statutory Declaration of S Anning dated 01/08/2025.
- Statutory Declaration of T Newsome dated 01/08/2025.

- Statutory Declaration of E Bowles dated 01/08/2025.
- Statutory Declaration of M Bowles dated 01/08/2025.
- 4no. Statement Accounts addressed to National Vehicle Servicing at the application site dated 31.07.2015, 31.05.2018, 10/06/2019 & 31.03.2021.
- Extracts of Google Earth aerial images dated 2010, 2013, 2017, 2020, 2021, 2023 & 2025.
- Drawing titled 'Location Plan'
- Site Plan – drawing no. 01
- Floor Plans & Elevations of Buildings A, B & C – drawing no. 02

Following discussions with the applicant, further evidence was submitted:

- Additional signed statement by the applicant dated 22.01.2026 with an annotated site plan identifying each building and their use.
- Revised site plan – drawing no. 01A
- A set of annotated aerial photographs dated 2010, 2013, 2017, 2020, 2021, 2023 and 2025 showing the application site and its surroundings.

By the Council:

- Planning History Records (see summary above)
- Enforcement History Records – there are no extant Enforcement Notices relating to the site.
- The Case Officer carried out a site visit on 03/10/2025 and the confirmed the presence of the operational development on the locations as shown in the submitted plans and the nature of the use of the land.
- Site visit photos (03/10/2025)
- Aerial images from the Council's mapping system taken from 2003, 2004, 2006, 2010, 2013 and 2015, 2019 and 2022.
- Extracts of Google Earth aerial images dated 01/1/2003, 05/09/2004, 01/01/2010, 06/06/2013, 25/03/2017, 23/06/2018, 15/04/2020, 16/07/2021, 01/08/2023 & 09/05/2025.
- 14/10/2025 email from the Council's Revenues Inspector confirming that there are no records of any paid Business Rates relating to the application site. Companies House Search
- NVS Website says the business was created in October 2002.

By third parties:

- No third party information received.

APPRAISAL

This application is for a Certificate of Existing Lawful Development to regularise the erection of Building B ('the Barn') and the use of the land, buildings and associated hardstanding shown on the submitted plans for vehicle maintenance including ancillary vehicles storage and office space in association with a vehicle servicing company. In determining a Certificate of Lawful Existing Development a Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

In the case of this Certificate, it must be demonstrated that the operational development, comprising Buildings A, B and C and the hardstanding, were substantially complete at least 4 years prior to the date of this application, i.e., by 19 August 2021, and that their use in connection with the vehicle maintenance and servicing use of the land to has been on-going continuously for at least ten years prior to the date of this application, the relevant period being from 19/08/2015 to 19/08/2025. The use of the land for vehicle maintenance with ancillary vehicles storage and office space in association with a vehicle service business also attracts a ten year period.

The National Planning Policy Guidance (NPPG) sets out that the onus of proof is on the applicant, not the Local Planning Authority in submitting a Certificate of Lawfulness. However, the NPPG also states that “if Local Planning Authorities have no evidence of their own to contradict or undermine the applicant’s version of events, there is no good reason to refuse the application provided that the applicant’s evidence is clear and unambiguous to justify the grant of a certificate”.

Planning merits are not relevant at any stage in the process however evidence from third parties, including neighbours, can be obtained should the Local Planning Authority consider it necessary to do so.

The Applicant’s Evidence

The evidence submitted relies heavily on 10no. Statutory Declarations provided by the applicant, who co-owns the land and owns the car servicing business (NVS), his wife (the second co-owner of the land), former staff members who worked on the site, customers and familial relatives. These declarations are supported by 4no. statement accounts addressed to National Vehicle Servicing at the application site, a series of aerial photographs dated 2010-2025 and plans showing the site and the dimensions of the existing buildings on site and their uses.

Following discussions with the applicant, additional evidence was submitted in the form of a written statement produced by the applicant, and the site plan and aerial photographs were re-submitted with annotations which clearly identify each building, how they are described within the declarations, and their use.

Statutory Declarations

The Applicant (S J Marsden) states in his declaration that he has owned Stokes Cottage since 2007 and run NVS vehicle servicing from the site from the date they moved in in 2007. The area around ‘the old Stable’ was made the base for the company and the land has continuously been used to the date as an office, vehicle storage & workshop. Mr Marsden states that he works full-time in the office on-site, has stored and repaired cars and vans and that ‘The Barn’ in the yard has always been used for repairing vehicles since it was built for the company in 2012.

The declaration of R Marsden states that she has co-owned the site with the applicant since 2007 and sometimes work as admin in the office on-site. She has seen and worked for the company since NVS and seen the storage, repair and sale of cars and vans and the use of ‘the stable’ as an office, and that ‘the Barn’ has always been used for repairing vehicles since it was built for the company in 2012.

It is noted that the declaration of R Marsden states that the use of the land includes the sale of cars and vans, which is not stated in the applicant’s declaration. As this use has not been applied for and is not referred to in any other submitted evidence, this matter

has not been explored further. Nonetheless, both declarations have been produced by landowners who are involved with the business running from the site and therefore can be given weight in the balance of probability.

The 8no. other Statutory Declarations have been produced by former staff members who worked on the site, customers and familial relatives. Overall, they support the stated use of the land for vehicle storage and repairs, but these individuals do not have an intimate knowledge of the site and together these accounts do not cover the whole 10 year period (19/08/2015 to 19/08/2025) which must be considered. As such, these hold less weight in balance of probability.

It is also noted that there are discrepancies between the submitted declarations in naming the three buildings in connection with the use of the land, e.g., Building B is named as 'the Barn' and 'Workshop', which slightly undermines the consistency of the submitted evidence. The plan attached to each declaration also does not clearly identify each building and their use.

Following discussions with the applicant, an additional statement supported by an amended site plan and annotated aerial photographs was submitted to clarify identify the name, siting and use of each building. This additional evidence clearly states the role of each building in relation to the applied use and clarifies some of the statements within the submitted declarations which are less clear.

Aerial Photographs

The submitted photographs provide snapshots of the site dating back to 2010 and cover the relevant period (2015 to 2025). The submitted declarations state that the use of the land for vehicle repairs and storage has been continuous since 2007, when the site was purchased and set up for use by the company, and that Building B (the Barn) was constructed in 2012. Aerial photographs dating back to 2004 and 2008, see below, slightly undermine this version of events.

While Building A (the Office) was in situ before 2007, the site appeared to gradually develop over time with Buildings B & C first clearly visible in the aerial image dated 06/06/2013. The existing area of hardstanding appears to have been smaller in area in 2008, and then enlarged by 2010 to its current area with the access serving the application site first visible in the aerial image dated 28/09/2008.

Nonetheless, in assessing this application the relevant period is 19/08/2015 to 19/08/2025 and the aerals support the claimed use of the land throughout this period. The site was clearly established before 2015, and there are no visible changes to the layout of the site or evidence of any other building operations taking place between the 2013 & 2025 aerial images.



Extract of
Google
Earth aerial
image dated
01/01/2004



Extract of
Google
Earth aerial
image dated
28/09/2008



Extract of
Google
Earth image
dated
01/01/2010



Extract of
Google
Earth image
dated
06/06/2013



Extract of
Google
Earth image
dated
09/05/2025

Statement Accounts

These 4no. invoices are addressed to National Vehicle Servicing at Stokes Cottage (the application site) and dated 31.07.2015, 31.05.2018, 10/06/2019 & 31.03.2021. While they do not cover the whole 10 year period, they support the claimed use of the site between 2015 and 2021.

Plans

The submitted plans show the site's location and layout. Additional evidence submitted includes an annotated site plan which clearly states the name and use of each building in relation to the stated use of the land.

The Council's Evidence

There is no planning history or enforcement records directly related to the application site. Correspondence with the Council's Revenues Team confirms that the site is not registered for Business Rates, although this does not explicitly undermine the claimed use of the land, it means that the owner has chosen not to register the use for rating purposes.

The nature of the use of the land including the buildings was observed on the site visit. Evidence of repair works was observed within Building B (Barn) with various vehicles, including branded vehicles associated with the business, parked on the yard area. Building A was observed to be in use as an office space, while Building C stored various equipment and paraphernalia which would typically be associated with a vehicle repairs/maintenance business. It is noted that this appeared to be a single use and the storage and office were clearly associated with the car maintenance business.

Summary

The originally submitted evidence is not wholly consistent or clear. However, additional evidence submitted following discussions with the applicant clearly identifies the use of each building in connection with the stated use of the land and support the overall version of events presented in the Statutory Declarations.

While a slight discrepancy has been identified in respect of when the operational development associated with the use was carried out, it is clear that the existing use of the layout was established before the relevant 10 year period. There is no evidence to suggest that the use of the land has been disrupted within the last 10 years, either through a material change of use or abandonment.

The Council does not hold any information which contradicts the evidence provided by the applicant.

Conclusion

Following receipt of additional information from the Applicant to address some gaps and deficiencies in the evidence, the information provided is now considered to be sufficiently precise and unambiguous. The Council does not hold any information which contradicts the submitted evidence, nor has any third party information been received.

Based on the evidence above, it can be said on the balance of probability that Building B, as shown in the submitted details, has been in situ for more than four years. It can also be said on the balance of probability that the use of the land and buildings including hardstanding for vehicle maintenance and with ancillary vehicles storage and office space in connection with a vehicle servicing business has been occurring continuously for a consecutive period of over ten years.

Subsequently the time limit for taking enforcement action had expired under s171B of the TCPA by the date of the application and the use of the land is lawful.

The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION

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 Building B ('the Barn'), has been substantially completed more than four years. It is also considered to have been demonstrated that the use of the land and buildings (A, B and C) including associated hardstanding, for vehicle maintenance with ancillary vehicles storage and office space in association with a vehicle servicing business has been occurring for a consecutive period of over ten years. It is therefore considered that this application for a certificate of existing lawful development be **approved**.

Date:	30 January 2025
Earliest date for decision:	18 September 2025
Recommendation agreed by: (Authorised Officer)	
Date:	30 January 2026