

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	252609
Site Address:	Valois, Range Road, Finchampstead, Wokingham, RG40 3NR
Expiry Date:	13 March 2026
Site Visit Date:	24 November 2025
Proposal: Application for a certificate of existing lawful development for use of the existing building and site as a fencing business.	

PLANNING HISTORY

Application No.	Description	Decision & Date
None Relevant		

INFORMATION PROVIDED

By the applicant:

- Signed Statutory Declaration
- Aerial Images from 1999 – 2025
- Sales Invoices October 2014 - 2025
- Tax Return
- Report from Office of National Statistics 2014
- Supporting Statement

By the Council:

- Site Visit
- Aerial Images 2014 - 2025

By third parties:

- Comments only

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 171B(2) provides that where there has been a breach of planning control consisting of the change of use (excluding to a 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 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, 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:

- 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.*

APPRAISAL

The application is for a Certificate of Lawful Existing Use to regularise for the use of the existing building and site as a fencing business. In determining a Certificate of Lawful Existing Use 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 use has been on-going continuously for at least ten years.

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 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".

Evidence submitted by the applicant.

The applicant's case is the evidence submitted demonstrates that the existing building and site has been used as a fencing business for a continuous period of at least 10 years. The supporting statement sets out that the site and building have been used for in excess of 23 years with the supporting evidence submitted demonstrating a period of use from 2014 – 2024. The signed Statutory Declaration has also confirmed the use

of the site in excess of 10 years. Finally, several sales invoices have been submitted showing business activity at the site since 2014.

Council's Evidence

Site visit observations

Access was granted to the site by the applicant on the 25th of November 2025 wherein the site and inside of the building were viewed. The land held fencing supplies and the building tools, machinery and supply for the operations of a fencing business. Site visit photos were taken and have been placed onto the file for future reference.

Council Aerial Photographs

The Council's aerial photographs dated 2013, 2015, 2019 and 2022 show the land in question. Similar Aerial photographs can be seen on Google Earth. The site remains fairly similar over this period of time and there is nothing obvious which would contradict the applicant's versions of events. As shown in the Council's Aerial Photographs corroborates with the aerial image provided by the applicant and subsequent Google Aerial Images obtained by the Council.

2013 Aerial Image



2015 Aerial Image



2019 Aerial Image



2022 Aerial Image



Google Aerial Images

2014 Aerial Image



2017 Aerial Image



2018 Aerial Image



2020 Aerial Image



2021 Aerial Image



2022 Aerial Image



2023 Aerial Image



Consideration

Applicant's Evidence

The evidence provided by the applicant outlines the use of the site and building as a fencing business yard since at least 2014 which continues to this day. Sales invoices addressed to the site have been provide from 2014 as well as a sworn declaration (which attracts great weight) confirm the use of the land and building for the fencing business. Furthermore, a supporting statement from the neighbouring property has

also been submitted which attests to the use of the land for the whole time the neighbouring residents have lived at the property (23 years). The council do not seem to hold records which would contradict or undermine the evidence provided by the applicant.

Aerial Photography

The aerial photography provided by the application including the Council's aerial images, show the land in question and materials/items stored upon it which corroborates the applicant's version of events.

Conclusion

Having considered the application and the Council's own evidence outlined in the Assessment, the Local Planning Authority are satisfied that on the balance of probabilities, the use of the existing building and site as a fencing business has occurred for more than ten years. The use has been continuous and uninterrupted for the relevant 10-year period.

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, use of land and existing building as a fencing business has *has occurred continuously for a period exceeding ten years prior to the application* . It is therefore considered that the application of a certificate of existing lawful use should be approved and a draft certificate is set out below.

Date:	5 November 2025
Earliest date for decision:	26 November 2025
Recommendation agreed by: (Authorised Officer)	
Date:	09.03.26

