

Our Ref: RR/97386

4 November 2025



Planning Department
Wokingham Borough Council
Civic Offices
Shute End
Wokingham
Berkshire
RG40 1BN

VIA PLANNING PORTAL

Dear Sir/Madam,

BRITISH GARDEN CENTRES
WINNERSH GARDEN CENTRE, 656 READING ROAD, WINNERSH
APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE
PLANNING PORTAL REFERENCE: PP-14459668

Introduction

On behalf of our client, British Garden Centres, please find enclosed an application seeking a Certificate of Lawful Existing Development in connection with Winnersh Garden Centre.

Background

Planning permission was granted for an extension and reconfiguration of the existing car park at Winnersh Garden Centre in April 2020 (LPA Ref: 200560). The extended and reconfigured park utilised land that was previously used as informal overflow parking during busier periods to provide a total of 141 formalised car parking spaces.

The extended car park permission was implemented in 2020 with the works completed by early November 2020. Whilst the permitted car park works were being undertaken, additional gravel was available and so this was added to the grassed area to the east of the extended car park to provide further informal parking. All of this work was completed by early November 2020.

It is the area to the east of the permitted extended car park, where the gravel was added in 2020 to form further car parking ('the subject car park works'), which is the subject of this application.

Relevant Planning History

In addition to the foregoing, this current application follows a recent application to seek confirmation that the subject car park works at Winnersh Garden Centre are lawful (LPA Ref: 251231). The LPA concluded with that application that the subject car park works are not lawful.

The officer's delegated report for application 251231 stated the following:

- The applicant's evidence does not demonstrate that the hardstanding for overflow car parking was implemented prior to 25th April 2020; and more than four years before the 25th of April 2024 is not demonstrated.
- The Council holds information which contradicts some of the submitted evidence and undermines the applicant's version of events that the use of the hardstanding as ancillary parking had been continuous.

Following on from the above, the case officer then concluded that, on the balance of probability, the operational development to lay a hardstanding for ancillary overflow car parking had not occurred more than four years before 25th April 2024 and therefore that the application for a certificate of existing lawful development should be refused.

Application 251231 was subsequently refused by decision notice dated 12th September 2025 for the following reason:

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 not considered to have been demonstrated that the operational development shown in its approximate location and outlined in red on the attached plan has occurred more than four years ago and prior to 25th April 2020.

This current application seeks to provide further clarification to correct some inaccuracies in the officer's report and to demonstrate that the subject car park works are lawful

Lawful Development

Section 191 of the Town and Country Planning Act 1990 (TCPA) (as amended) states:

'Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether –

- Any existing use of buildings or other land is lawful;*
- Any operations which have been carried out in, on, over or under land are lawful; or*
- Any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,*
he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if-

- No enforcement action may then 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.*

The Levelling Up and Regeneration Act 2023 (section 115) amended the Town and Country Planning Act 1990 (section 171B) to update the time limits within which local planning authorities can take planning enforcement action against breaches of planning control. These changes took place on 25

April 2024. However, transitional measures were also put in place based on when the breach of planning control took place.

Accordingly, if the breach took place prior to 25 April 2024 then for operational development relating to building, engineering or mining, enforcement action can no longer be taken from four years, beginning the date where the operations were substantially completed.

Given the foregoing, the subject works were undertaken prior to 25 April 2024 and therefore the transitional time period arrangements apply. Moreover, all of the car park works were commenced in the spring of 2020 and completed by early November 2020 which is now five years ago (and four and a half years prior to the submission of application 251231). The submitted details, which includes various dated invoices for the equipment and materials required to construct the car park, including the subject gravelled parking area, provide evidence that all the required equipment and materials were used by November 2020. As such, it has been demonstrated that the subject car park works were completed by November 2020.

This fact was not disputed by the LPA in their consideration of application 251231. Instead, the LPA concluded that the applicant's evidence does not demonstrate that the hardstanding for the overflow car parking was implemented prior to 25th April 2020; and more than four years before the 25th of April 2024 is not demonstrated.

However, the 'test' is not whether the operational development had occurred more than 4 years before the 25th April 2024 (i.e. when the time limits changed) but rather that (if the breach took place prior to 25th April 2024) enforcement action can no longer be taken from four years beginning the date where the operations were substantially completed.

As such, and based on the foregoing, given the works were completed by November 2020, then the operational development became lawful from November 2024. This is also based on our understanding that no enforcement action had been undertaken by the LPA prior to November 2024. Whilst there was correspondence between the applicant and the LPA in September and December 2024 regarding the subject car parking area, no formal enforcement action had(s) been taken by the LPA.

As such, no enforcement action can now be taken in respect of the subject car park works because the time for enforcement action has expired and they are not subject to any enforcement notice in force to accord with Section 191(2) of the Town and Country Planning Act as summarised above. Therefore, the subject car park works are lawful.

Notwithstanding the foregoing conclusion, and for completeness, in considering application 251231, the case officer suggested in their officer report that the subject land had been used for car storage/sales (and so was not an ancillary use to the garden centre). However, the applicant has confirmed that whilst the subject area of land was used for a short period by a car storage company (for the parking of cars only, not for sales) this was terminated as soon as it was queried by the LPA. Therefore, the applicant has confirmed that the subject area of the land has been used for car parking since it was implemented i.e. since November 2020.

We would also note that the case officer suggested in their officer report for application 251231 that the total value of the invoices submitted 'would appear excessive to lay a hardstanding of this size'. However, we would clarify that the invoices submitted then (and again submitted as part of this application) relate to both the extension and reconfiguration of the car park as permitted by application 200560 as well as the subject car park works. As noted above, additional gravel was available whilst

implementing permission 200560 and so this was added to the grassed area to the east of the extended car park to provide further informal parking (i.e. the subject car park works).

Application Submission

Accordingly, the application submission comprises the following in addition to this covering letter:

- Completed application form;
- CIL form;
- Site Location Plan (drawing no. A-PL-200 P01)
- Site Plan/Block Plan Overflow Car Park (drawing no. A-PL-201 P01)
- Invoices for the car park works including:
 - Tradevault dated 3rd March 2020 for temporary safety fencing
 - JE Spence & Son Ltd dated 31st March 2020 for hire of excavator
 - Buildbase dated 8th April 2020 for type 1 roadstone
 - Keyline Civils Specialists dated 26th October 2020 for materials
 - Buildbase dated 31st October 2020 for twin drum ride on roller
 - Travis Perkins Trading Co. Ltd dated 12th November 2020 for diesel for gas oil
 - Buildbase dated 17th November 2020 for twin drum ride on roller
 - Travis Perkins Trading Co. Ltd dated 18th November 2020 for hire of dumper between 27th October 2020 and 6th November 2020 and gas oil
 - JE Spence & Son Ltd dated 23rd November 2020 for hire of 20 ton excavator and crusher bucket
 - GPC74 dated 30th November for stone supply
 - Landshaped Ltd dated 9th December 2020 for fencing to the car park

Conclusions

On the basis of the evidence provided and in accordance with Sections 171B and 191 of the TCPA, it is clear that the subject car park works, which were completed by November 2020, is lawful and that the local planning authority should be able to issue a Certificate of Lawfulness.

We look forward to receiving confirmation that the application has been registered and progressing the application thereafter. Please do not hesitate to contact me should you have any queries.

Yours faithfully

RRobinson

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