

DELEGATED OFFICER REPORT



**WOKINGHAM
BOROUGH COUNCIL**

Application Number:	251080
Site Address:	Moor Green Barn, Lower Sandhurst Road, Finchampstead, Wokingham, RG40 3TH
Expiry Date:	4 July 2025
Site Visit Date:	23 June 2025
Proposal: Application for a certificate of existing lawful development for use of the existing building as Office Use Class E (g) (retrospective).	

PLANNING HISTORY

Application No.	Description	Decision & Date
160159	Householder application for proposed new access.	Approve 30 March 2016

SITE DESCRIPTION

The application site is an outbuilding and gravel track that falls within designated Countryside and is on a parcel of land approximately 0.3 hectares in area. The vehicular entrance to the site is on Lower Sandhurst Road. There are no listed buildings at the site and the property is not within a Conservation Area or other 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order 2015). The outbuilding is currently used as an office and was previously used for storage purposes. The outbuilding has timber external walls and a tiled gable roof with 2 no. roof lights. It measures approximately 9.4m in length, 9.8m in width (including the rear store), 2.3m in height to the top of the eaves, and 4.3m in height to the top of the gable roof. and has a wooden door with no glazing; a large window has been inserted into the front elevation.

A Planning Enforcement (ref RFS/2017/083954) investigation into the alleged unauthorised development on land adjoining Moor Green Farm was opened on 18th October 2017 and closed on 19th August 2021. The investigation concluded that the building known as Moor Green Barn had been in situ for more than 4 years; was used for storage purposes, and no business use was occurring there. Therefore, there was no breach of planning control, and the enforcement case was closed.

A site visit was undertaken on 23rd June 2025 to inspect the inside of the outbuilding and take photographs. Inside, there is a mezzanine floor with kitchen area, office space and 2 no. armchairs; the ground floor is furnished with a sofa, coffee table and has a bathroom; the basement has a daybed and 2 no. large desks. The internal arrangement of the outbuilding is open plan, and all three floor levels are accessed from the same entrance door. Attached to the outbuilding is a smaller storage area containing miscellaneous building materials and garden maintenance items including a lawnmower, tree pruners, a step ladder, a fan and several paint pots.

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.” In this case, the change of use of an existing building to Office Use Class E represents a material change of use of land and thus constitutes development requiring planning permission.

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 beginning with the date on which the operations were substantially completed.

Section 171B (2) provides that 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) states that 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 beginning with the date of the breach.

In this case, the applicant is required to demonstrate on the balance of probabilities that the use commenced and has been continuous for 10 years prior to the date of application in order for the change to have become lawful.

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 to properly describe the nature of the material change of use which occurred.

In the case of *Burdle & Williams v SSE & New Forest RDC* [1972], the inspector concluded that the planning unit should be determined by identifying the unit of occupation and whether there is physical and/or functional separation of primary uses as a matter of fact and degree. The judge suggested three broad categories of distinction:

- 1) A single planning unit where the unit of occupation is used for one main purpose and any secondary activities are incidental or ancillary.
- 2) A single planning unit that is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another.
- 3) The unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes. In such a case, each area used for a different main purpose, together with its incidental activities, ought to be considered as a separate planning unit.

In this case, the owner does not live on the site, and the outbuilding does not have an ancillary or residential connection to his main dwelling house. Furthermore, on 23rd June 2025 a kitchen, separate bathroom, day bed, sofa, 2 no. armchairs, TV, wardrobe and coffee table associated with residential use were observed during a site visit. Office equipment including a computer, monitor desks and a printer were located on the upper mezzanine floor. The storage lean-to was accessed from outside and contained miscellaneous items for garden and home maintenance. Therefore, the outbuilding is considered a single planning unit that is in a mixed use, and it is not possible to say that one is incidental to another.

INFORMATION PROVIDED

By the applicant:

Appendix 1

Signed Statutory Declaration by Mr Michael Ball dated 24th April 2025, stating that the property has been used as an office for over 10 years:

- Various outbuildings were used by the previous owner of Moor Green Barn for his car repair business.
- In 2008, Mr and Mrs Ball were introduced to Moor Green Farm. They were attracted by its residential and commercial use to support their business, Chevallier Developments.
- In 2009, they purchased the property and used the facilities for staff parking, meetings, and daily operations.
- In 2012, they applied for planning permission to redevelop the residential part of the property.
- In 2013, the barn, was upgraded with office amenities including a kitchen, shower, meeting space, and utilities. It became the company's headquarters, supporting extensive business activity.
- In 2017, Mr and Mrs Ball sold Moor Green Farm but retained the adjacent land and Moor Green Barn to be used for their business.
- Over the years, multiple family members and staff have worked from the barn, maintaining its commercial use consistently for 30 years

Appendix 2

Signed Statutory Declaration by Mr Stuart Duncan Lowden dated 1st May 2025, stating that that the property has been used as an office for over 10 years:

- In 2008, Mr and Mrs Lowden, learned Moor Green Farm might be for sale. They passed the opportunity to friends Michael and Maria Ball, who were seeking a dedicated business space. The Balls purchased the property, built a new house, and established their business, Chevallier Developments, at Moor Green Barn.
- In 2017, Mr and Mrs Lowden bought land in Crowthorne and engaged Chevallier Developments to help design their home.
- Since 2009, they've regularly visited Moor Green Barn and held numerous meetings with the company and consultants, maintaining ongoing contact for future housing plans.

Appendix 3

Signed Statutory Declaration by Lisa Helena Cowap dated 24th April 2025, stating that the property has been used as an office since 2009:

- The previous owner had used the Moor Green Barn commercially.
- Ms Cowap has known Michael Ball personally and professionally since 2003.
- In 2009, Michael and his wife Maria established their home and business, Chevallier Developments Ltd, at Moor Green Farm, using Moor Green Barn as their office. The barn was well-equipped for meetings and administrative work.
- In 2019, Ms Cowap began working part-time at the barn, providing finance and

admin support for client projects. Apart from COVID lockdowns, she regularly attended the office until March 2024 and can confirm it remains in active business use.

Appendix 4

Signed Statutory Declaration that it is Mr Bamber's dated 2nd May 2025, stating that Chevallier Developments have been using the barn commercially since it was bought in 2009, and from his personal experience, it has been in constant use as an office from 2014 to May 2025:

- David Bamber and his family met Mike and Maria Ball around 2007 in Crowthorne, through their children's school.
- In 2010, Mike and Maria Ball bought a property in Finchampstead, aiming to build a family home and establish Chevallier Developments.
- In 2014, Mr and Mrs Bamber asked Mike Ball to look out for suitable plots or homes.
- Mr and Mrs Bamber viewed Moor Green House and The Barn but opted to build their own home to achieve their vision.
- In 2016, they purchased Broomfield and approached Chevallier Developments for support.
- In late 2018, Mike Ball's team helped to refine the design. Covid delayed completion, but the house was finished in 2021.
- Throughout construction, Mike was deeply involved—on site daily and always accessible.
- Mr and Mrs Bamber remain in regular contact with Mike, and Mike Ball is still based at the Barn.

Appendix 5

Signed Statutory Declaration by Elliot Ball, dated 31st March 2025 and stating that that Moor Green Barn has been continuously used as an office for over 10 years.

- Michael and Maria Ball purchased Moor Green Farm in 2009.
- The planning and construction of the new family home took several years.
- During this period, Elliott Ball enjoyed regular visits with siblings and friends, often playing outdoors and even camping on-site before moving in permanently in 2014.
- The office at the Barn played a central role, particularly for Mike Ball's work commitments.
- After graduating university in 2019, Elliot Ball joined the family company, Chevallier Developments.
- As a Quantity Surveyor, Elliot Ball worked across several local projects (Finchampstead, Bucklebury, Crowthorne).
- Elliot Ball handled procurement, cost calculation, tenders, and liaised with contractors—mostly from the Moor Green Barn office.
- The Barn had phones, broadband, multiple computers, and specialised printers including an A1 unit for architectural drawings and family use.
- After nearly three years at Chevallier Developments, Elliot Ball moved on to develop your career in London.
- Elliot Ball's father, sister Evelyn, and brother Henry continue to work regularly from the Barn.

Appendix 6

Signed Statutory Declaration made by Timothy John Chevallier Jenkins, dated 25th April 2025, and stating that the office has been in constant use throughout this period and still being used by Chevallier Developments today:

- From 2010 to 2014, as Director of Chevallier Developments Limited, Mr Jenkins oversaw the redevelopment of Moor Green Farm, using the Barn (Moor Green Barn) as an onsite base.
- Since then, the Barn has continued to serve as an administrative hub and workspace for both company operations and personal projects of associated colleagues.
- Regular users over the past 15 years include Michael Ball, Maria Ball, Lisa Cowap, Elliot Ball, Henry Ball, and Mr Jenkins. The Barn has also been a frequent meeting venue for clients, consultants, contractors, and suppliers.

Appendix 7

Signed Statutory Declaration by Keith Butler-Wheelhouse dated 2nd May 2025, and stating that the same to be the truth and by virtue of the provisions of the Statutory Declarations Act 1835:

- In 2004, Mr Butler-Wheelhouse met Tim Jenkins, partner at Chevallier Developments, through golf at Sunningdale.
- In 2014, Mr Jenkins introduced Mr Butler-Wheelhouse to Mike Ball. Mike was already operating from Moor Green Barn and showed Mr Butler-Wheelhouse several of their developments.
- Over the next four years, he helped design and specify Mr Butler-Wheelhouse's new home, with many meetings held at the Barn.
- In 2021, Mr Butler-Wheelhouse began planning a new build in Sunningdale and again consulted Mike at his Moor Green Barn office. He guided Mr and Mrs Butler-Wheelhouse through design ideas and introduced them to an architect. Although the project was eventually abandoned due to COVID-related delays, Mike supported them in refurbishing the existing house by recommending reliable tradespeople. His office at Moor Green Barn was a valuable resource throughout, offering CAD tools, material samples, and internet access.

Appendix 8

Signed Statutory Declaration by Maria Evelyn Michaela Ball, dated 25th April 2025, and stating that the office has been in constant use throughout this period and is still being used as an office today:

- In 2008, the outbuildings at Moor Green Farm were used for business purposes.
- Mrs Ball's role focuses on managing interiors and landscaping for both of their developments and client projects.
- In 2008, Stuart and Fenella Lowden informed Mr and Mrs Ball of a neighbouring property potentially for sale.
- Mr and Mrs Ball purchase the property (Moor Green Farm) in 2009. While planning and building their new home, Mr and Mrs Ball began using the outbuildings to support their business early on.
- By 2013, Moor Green Barn (MGB) became their full-time office for Chevallier

Developments.

- Since 2013, MGB has been in continuous use as an office, including during COVID lockdowns.
- Their son Elliot Ball worked at MGB from 2019 to 2021. Their other children, Henry Ball and Evelyn (Evy) Ball have also used the office professionally—Henry since September 2020 and Evy since February 2022.

Appendix 9

Signed Statutory Declaration by Henry Ball, dated 24th April 2025, and stating that The Barn has been in constant use as an office from 2013 to the current day:

- In 2009, his parents purchased Moor Green Farm and began developing it into their family home. Henry and his siblings frequently visited, exploring the grounds while their parents began using one of the outbuildings—now known as Moor Green Barn (MGB)—for their business, Chevallier Developments.
- By 2014, the barn had been upgraded with amenities and was regularly used by their father for work.
- After the farm was sold in 2017, his father continued commuting to MGB from their new home in Crowthorne, and they often visited.
- In 2018, Henry began working in architectural model making and later moved into 3D kitchen design. Due to limited office space at his employer's premises, he worked from MGB.
- Since being made redundant in 2022, he has been freelancing from MGB, working with Chevallier Developments and Pont + Wils on residential design projects, and continues to do so today.

Appendix 10

Signed Statutory Declaration by Roy Farrell, dated 30th April 2025, and stating that the office has been in constant use throughout this period and still being used as by CD today.

- Mr Farrell owns Farrell & Co. Design, a consultancy specialising in interior design and property personalisation. He has had a professional relationship with Chevallier Developments (CD) for over 15 years.
- Since 2010, he has been aware of the use of Moor Green Barn/Cottage as their office.
- From 2013 to the present, he has visited their office regularly—often monthly and sometimes more frequently—for over a hundred meetings involving CD, clients, contractors, and suppliers to discuss various design-related matters.

Appendix 11

Signed Statutory Declaration by Martin Joseph Druce, dated 24th April 2025, and stating that the office has been in constant use throughout this period and still being used today:

- Mr Druce owns and operates MJD Carpentry and has worked with Chevallier Developments (CD) for over 25 years.
- In 2010, he learned that Michael Ball of CD had acquired the property known as Moor Green Barn/Cottage.
- Since 2013, he has carried out work on the office building, including constructing a rear store in 2014.
- Their company has been involved in many of CD's local projects from 2013 to the present, leading to regular visits to their office—often annually or more

frequently—for meetings regarding jobs, specifications, materials, and consultations with clients and designers.

Appendix 12

Signed Statutory Declaration by Lindsay Alexander Moir Grieve, dated 24th April 2025, and confirming that the office has been in constant use since 2013 and that the items moved there are still in the office today:

- In 2013, Chevallier Developments asked Mr. Grieve to move office furniture from a London location to their office at Moor Green Farm, Finchampstead. The items included desks, chairs, and lamps, which were placed in what Mr. Grieve has always known as Moor Green Barn. Since then, he has visited the office most years, sometimes multiple times annually.

Appendix 13

Signed Statutory Declaration by Kevin Paul Delaney dated 30th April 2025 and stating that:

- In 2015, Mr. Delaney, owner of Fusion Brickwork in Wokingham, connected with Chevallier Developments when quoting for a project in Harrow.
- In 2016, Fusion began working with Mike Ball and Chevallier Developments on a development in Crowthorne and has continued collaborating on numerous projects since.
- Mr. Delaney and his team have regularly visited the Moor Green Barn office, where they've always been welcome. Currently, they are in active discussions regarding three ongoing Chevallier Developments projects.

Appendix 14

Signed Statutory Declaration by Andrew Paul Philpott, dated 1st May 2025, and stating that to the best of his knowledge Moor Green Barn has been continually used as an office for over 10 years:

- In 2014, Mr and Mrs Philpott first met Mike Ball of Chevallier Developments (CD) when viewing one of their homes in Crowthorne.
- In 2020, they learned CD had acquired a site on The Devils Highway in Crowthorne and arranged to buy the plot after meeting Mike on-site and later at his office, which they knew was next to his home in Finchampstead.
- Over the next three years, they had many meetings at the office—Moor Green Barn—during the design and construction phases. The office was a convenient and welcoming space for reviewing plans and meeting our interior designer. They remain in regular contact with Mike and CD.

Appendix 15

Planning Contravention Notice (PCN) dated 9th January 2021. Mike Ball response confirmed:

- Interest in the land since 2009.
- The building has always been used for storage and as an office related to the business.
- Connected to water, foul, electric, broadband and phone utilities.
- Building has a kitchen and shower room.

Appendix 16

Copy of letter from Planning Enforcement Officer to Mike Ball dated 4th March 2020:

- Notification of intention to visit site on 12th March 2020.
- Following previous visit on 24th July 2018 when the Enforcement Officer was unable to gain access to the building, the Council were requested to investigate whether the use of the building was residential.

Appendix 17

Document with photos of the building stating they were taken in 2014, 2017 and 2025:

- Pole by the gate with broadband and phone line.
- Treatment plant.
- Building in 2014 with flue pipe and the shower room pod.

Appendix 18

Copy of McCarthy Holden Sales brochure for Moor Green Barn dated 2015.

By third parties:

Finchampstead Parish Council statement received on 22nd May 2025 states: *“While the notification for a Certificate of Lawful Existing Use is for information only and does not require formal comment, the Committee RESOLVED to OBJECT on the grounds that our records show there is no evidence to support the claim that the building has been used as an office for the required period, which directly contradicts the statements made in the planning statement. This view is further reinforced by residents, who regularly pass the property and have not observed any regular signs of occupation/use as an office during that time. The Committee would also like to point out that this site was the subject of an investigation by WBC Enforcement officers. We are happy to share our records on the matter should WBC require them. The resolution was correctly proposed and seconded (unanimous).”*

By the Council:

1. Moor Green Farm Planning History Records

Application Number	Description	Decision & Date
110933	Application for a certificate of lawfulness for the proposed erection of 1 x detached triple garage	Refuse 13 July 2011
110875	Application for a certificate of lawfulness for the erection of 1x detached triple garage.	Approve 26 August 2011
120501	Erection of a replacement dwelling with associated access and parking, following demolition and removal of existing dwelling and ancillary buildings.	Approve 10 September 2012
120306	Application for submission of details to comply with the following conditions of planning consent	Approve 28 March 2013

	F/2012/1104: 3. Samples/details of materials. 4. Details of existing and proposed ground levels and finished floor levels and roof heights. 7. Demolition timetable. 9. Scheme of landscaping. 10. Arboricultural Method Statement, tree protection and retention. 11. Details of boundary treatments. 16. Scheme to deal with potential contamination of site.	
131276	Application for a non-material amendment to planning consent F/2012/1104 to allow reductions in ground level.	Approve 28 March 2013
160159	Householder application for proposed new access.	Approve 30 March 2016
180782	Householder application for the proposed erection of single storey side/front extension, following the demolition of existing garden store.	Approve 25 May 2018

2. Planning Contravention Notice (PCN): RFS/2017/083954

A PCN was served to the owner on the 19th January 2021 and in the response the owner provided the following information:

- Mr Ball is the current owner and his interest in the land began in 2009.
- The previous owner had said the building was constructed in the 1990's.
- The building has always been in use as storage and an office for the owner's construction business.
- The building is not associated with Moor Green Barn
- The building has a kitchen, bathroom, water, electricity, foul drainage, internet and a phone.
- Building materials present were left over from constructing the walls on site.

3. Enforcement Notice Records: None

4. Council Tax and Business Rate Records: None

5. Building Control records: None.

6. Planning Enforcement History Records:

RFS/2017/083954: Land adjacent to Moor Green Farm

- 1st September 2017: A request for service that alleged a new electricity and water supply had been installed at Moor Green Barn and possible development was occurring without planning permission.
- 15th May 2018 Enforcement Officer visited the site but was unable to gain access to the inside of Moor Green Barn (Figures 1-3).



Figure 1 Driveway from the Moor Tree Barn towards the new entrance taken by the Enforcement Officer 15th May 2018



Figure 2 View of Moor Green Barn taken by the Enforcement Officer 15th May 2018



Figure 3 View of Moor Green Barn taken by the Enforcement Officer 15th May 2018

- 24th July 2018: Follow up Enforcement site visit and Mr Ball was present. He explained that he intended to keep the use of the land as agricultural. He said the detached building positioned up to the west boundary of the site had been there since the 1990's and was used for storage which has always been the use ancillary to the previous house on the site. The Planning Enforcement Officer

requested to gain access and Mr Ball provisionally agreed but did not have a key.

- 1st November 2018: Planning Enforcement Officer attempted follow up site visit; no activity observed, and gates locked.
- 13th December 2018: Planning Enforcement Officer attempted; no activity observed, and gates locked.
- 3rd July 2019: The Planning Enforcement Officer observed over the fence as site was locked and could see no change in situation as seen on previous visit. No one on site and no activity observed.
- 13th November 2019: The Planning Enforcement Officer observed over the fence as site was locked and could see no change in situation as seen on previous visit. No one on site and no activity observed.
- 11th March 2020: Planning Enforcement Officer attempted site visit and could hear construction vehicles on the site. He observed over the fence vehicles on the site and a digger that appeared to be doing groundwork. A wall had been constructed since the Officers last visit with the owner.
- 14th July 2020: Planning Enforcement Officer met Mr Ball on site. The land had changed since the previous site visit; bunding/hard surfacing was now grassed and trees planted that Mr Ball said would become an orchard (Figures 6&7). Mr Ball confirmed that the detached building had been there since 2009, and he had added a small extension to the front in 2013. Mr Ball said that the building was used for storage since he purchased the property. The Enforcement Officer inspected inside and there was no kitchen or cooking facilities, and there were no windows in the side walls. The whole area of the building was in use as storage and there were no partitions (Figures 4&5).



Figure 4 Stored materials inside Moor Green Barn taken by Enforcement Officer on 14th July 2020



Figure 5 Stored materials inside Moor Green Barn taken by Enforcement Officer on 14th July 2020



Figure 6 Moor Green Barn taken by Enforcement Officer on 14th July 2020



Figure 7 Moor Green Barn taken by Enforcement Officer on 14th July 2020

- 22 September 2020: The Planning Enforcement Officer viewed the rear of the site from nature reserve and observed no change on the site and no activity.
- 19th January 2021: PCN issued and cover letter stating that on the previous site visit inspection, the use of the detached building had been found to be solely for storage, with no kitchen or living facilities, and the owner had also confirmed it has always been used for storage. Furthermore, the letter stated that aerial records support its long-standing presence, and its siting did not breach planning

control. The owner was advised to apply for a Lawful Development Certificate to confirm the building's storage use over the past 10 years.

- The enforcement investigation was closed following the PCN response, and the Outbuilding was deemed to be lawful because there was no evidence of a business use, and it had been in situ for more than four years. The owner was advised to submit an application for a Lawful Development Certificate for storage use.

Planning Officer Records

- The Case Officer for this application carried out a site visit on 23/06/2025 (Site visit photos Figures 8-15) and met with the owner of Moor Green Barn who confirmed that it is currently used as an office.



Figure 8 External view of Moor Green Barn taken by the Case Officer on 23/06/2025



Figure 9 External view of Moor Green Barn taken by the Case Officer on 23/06/2025



Figure 10 Storage area Moor Green Barn taken by the Case Officer on 23/06/2025



Figure 11 Mezzanine Floor Moor Green Barn taken by the Case Officer on 23/06/2025



Figure 12 Shower Room Moor Green Barn taken by the Case Officer on 23/06/2025



Figure 13 Basement Moor Green Barn taken by the Case Officer on 23/06/2025



Figure 14 Mezzanine Floor and kitchen area Moor Green Barn taken by the Case Officer on 23/06/2025



Figure 15 Mezzanine floor office Moor Green Barn taken by the Case Officer on 23/06/2025

- When comparing photos taken on 14th July 2020 (Figures 4 & 5) with those taken

on 23rd June 2025 (Figures 11 to 15), the log burner was present on both occasions. However, in 2020, the current split-level layout with stairs to upper and lower levels was not observed. Also, there was no bathroom or kitchen in 2020. Furthermore, the office and residential furniture present in 2025 were not there in 2020 when the building was being used for residential and garden equipment storage.

APPRAISAL

The application is for a Certificate of Lawful Existing Use to regularise a change of use of the existing building to Office Use Class E (g) (retrospective) 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, the relevant period being 02.05.2015 to 02.05.2025.

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”*.

The Applicant’s Evidence

1. 3 no. Statutory Declarations that state outbuildings associated with Moor Green Farm were used for business purposes prior to Mr and Mrs Ball purchasing the property.
2. 14 no. Statutory Declarations made by the owners of Moor Green Barn, their children, colleagues, clients and friends. For example, Mr Ball states that he upgraded the barn with office amenities including a kitchen, shower, meeting space, and utilities in 2013. Furthermore, declarations from several people state that they have visited the barn regularly since 2014 and up until the present day; also, whilst visiting, they have observed Moor Green Barn being used for office purposes related to the owner’s business known as Chevallier Developments.
3. A copy of the response to a Planning Contravention Notice (PCN) dated 9th January 2021 in which the owner confirmed his interest in the land since 2009; the building has always been used for storage and as an office related to the business; it is connected to water, foul, electric, broadband and phone utilities;

and the building has a kitchen and shower room.

4. Copy of letter from Planning Enforcement dated 4th March 2020 requesting site visit to Moor Green Barn to investigate an alleged breach of planning control that the building was being used for residential purposes.
5. Images of the outside of the barn taken in 2014, 2017 and 2025.
6. Copy of McCarthy Holden Sales brochure for Moor Green Barn dated 2015. The brochure does not include images or information about Moor Green Barn.

By third parties:

Finchampstead Parish Council Committee state that their records show there is no evidence to support the claim that the building has been used as an office for the required period. The evidence was provided by residents, who regularly pass the property and have not observed any regular signs of occupation/use as an office during that time. However, this information has limited weight given that the building is set back approximately 45m from the entrance on Lower Sandhurst Road and partially screened from the public realm by locked wooden gates and tall hedges.

The Council's evidence

1. Planning Enforcement records including dated site visit images and written notes confirming that 9 no. Planning Enforcement site visits were attempted between September 2017 and July 2020:
 - In July 2018, the Officer met with the owner on site; he was not able to access the inside of the detached building because the owner did not have a key. The Officer's site visit notes state that the owner confirmed that the building was used for storage.
 - Between Nov 2018 and Nov 2019, the Enforcement Officer attempted 4 no. site visits but was unable to gain access to the site because the gate was locked. He observed no activity on the site when observing over the fence.
 - 11th March 2020: Planning Enforcement Officer attempted site visit and could hear construction vehicles on the site. He observed over the fence vehicles on the site and a digger that appeared to be doing groundwork, and a wall inside the site had recently been constructed.
 - 14th July 2020: the Planning Enforcement Officer met Mr Ball on site. The Officer's site visit notes record that Mr Ball said as follows:
 1. The detached building had been there since 2009.
 2. Mr Ball added a small extension to the front in 2013.
 3. The building had been used for storage since he purchased the property.

The Enforcement Officer inspected inside of the building and took photographs. The Officer's site visit notes state that the whole area of the building was in use as storage and there were no partitions. There was no kitchen or cooking facilities, and no windows in the side walls.

The Planning Enforcement investigation ref RFS/2017/083954 investigation concluded that the building known as Moor Green Barn had been in situ for more than 4 years; was used for storage purposes, and no business use was occurring

there. Therefore, there was no breach of planning control at this time, and the enforcement case was closed.

2. No Business Rates or Council Tax paid for Moor Green Barn.
3. No building regulations application has been made for Moor Green Barn.
4. Land Registry Titles and Plans confirm that the land associated with Moor Green Farm was divided into two parcels of land in September 2017, with Moor Green Farm ceasing to be under the ownership of Mr Ball.

Conclusion

In *Gravesham Borough Council v Secretary of State for the Environment* (1984) it was settled that a dwellinghouse is a building containing the facilities required for day-to-day private domestic existence. The case also dealt with the point that although the building was not occupied in the winter months, this did not deprive it of its essential residential character.

In this case, the applicant's evidence is consistent and clear that Moor Green Barn has been used by the owners for more than 10 years and is currently used as an office. However, the applicant has not provided photographic evidence that the barn has been used as an office since 2014.

Furthermore, the Council holds information which contradicts some of the submitted evidence and undermines the applicant's version of events that the office use has been continuous for at least 10 years:

- Planning Enforcement records confirm that the building was being used solely for storage purposes in July 2020. Moreover, when the officer inspected the inside of the building, there was no evidence found of office use, no partitions no kitchen or cooking facilities, and no windows in the side walls.
- When the outbuilding was inspected in June 2025, office equipment was observed on the upper mezzanine floor including a desk, chair, computers, monitors, printers and paper files. However, items of furniture were also observed that would not usually be found in an office of this size. For example, as well as a kitchen area, there was a log burner, sofa, easy chairs and cupboards in the lounge area. The basement area had 2 no. office desks, chairs, and a daybed. There was also a separate shower room in the building.
- Business Rates and Council Tax have not been paid for Moor Green Barn since it has been under the ownership of Mr Ball, and not since 02.05.2015.

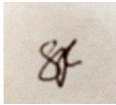
It can therefore be said on the balance of probability that the use of the existing building as Office Use Class E (g) has not been taking place continuously for over the last ten years.

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 not considered to have been demonstrated that the change of use of the existing building to Office Use Class E (g) has been occurring for a consecutive period of ten years. It is therefore considered that the application of a certificate of existing lawful use should be refused.

Date:	31 July 2025
Earliest date for decision:	29 May 2025
Recommendation agreed by: (Authorised Officer)	
Date:	1.8.25