

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	260368
Site Address:	Bentley Lane Piggeries, Poplar Lane, Winnersh, Wokingham, RG41 5JR
Expiry Date:	14 August 2026 (EoT)
Site Visit Date:	14 July 2026
Proposal: Application for a certificate of existing lawful development for the proposed mobile homes within garden of the principal dwelling (Retrospective).	

PLANNING HISTORY

Application No.	Description	Decision & Date
07441	Continuation of existing temporary use as open storage for vehicles on a permanent basis.	Approved 19/01/1978
010066	Proposed provision of disabled toilet facilities to dwelling.	Approved 26/09/2001
242131	Application for a certificate of lawful development for the use of the land for mixed agricultural and storage purposes and use of the land as a landscaper's yard.	Approved 13/12/2024

SITE DESCRIPTION

This application site is located off Poplar Lane, Winnersh, and it is located away from other residential properties in the area giving the site a remote feeling. The site falls within the designated countryside and directly abuts the A329 motorway.

There are no listed buildings at the site, and the site is not located within Article 2(3) land.

The application site is identified as being a highly suitable habitat for great crested newts and thus the site is an Amber Risk Zone. Additionally, the site is identified as being within an area that holds the potential to support bat roosts.

LEGISLATION

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

Section 55(1) of the TCPA 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 TCPA requires that planning permission is required for the carrying out of any development of land.

Section 171B (1) of the TCPA 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 in the case of a breach of planning control in England, 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 of 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 four years beginning with the date of the breach.

Section 171B (3) of the TCPA 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 most cases, development becomes immune from enforcement if no action is taken:

- within 10 years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place on or after 25 April 2024
- within 10 years for an unauthorised change of use to a single dwellinghouse where the change of use took place on or after 25 April 2024
- within 4 years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place before 25 April 2024;
- within 4 years for an unauthorised change of use to a single dwellinghouse where the change of use took place before 25 April 2024

In the case of this Certificate, it must be demonstrated that the land has been used for the siting of four caravans for residential use by gypsy/travellers for at least 10 years prior to the application i.e. 11 December 2015.

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 or activity begun, or that building works were substantially completed by 1982 for Caravan A, and 2008 for Caravan B.
- Submitted planning statement / cover letter from Mark Leedale
 - States that the application relates to two mobile homes located within the garden curtilage of the principal dwelling known as Bentley Lane Piggeries.
 - States that the structures are mobile homes/caravans which are capable of being moved and satisfy the relevant statutory size limitations.
 - States that both units are occupied by family members of the principal dwelling.
 - States that the mobile homes are occupied on an incidental and ancillary basis to the principal dwelling and do not comprise separate self-contained dwellinghouses.
 - States that meals are prepared within the principal dwelling and that the occupiers utilise facilities within the principal dwelling as part of their day-to-day living arrangements.

- States that neither mobile home contains cooking facilities capable of supporting independent occupation, with Unit B containing a microwave only.
- Submitted location plan and block plan.
 - Showing the location of the site and the siting of the caravans.
- Submitted floor and elevation plans for Units A and B.
 - The drawings identify kitchen units, bedrooms, bathrooms and lounge areas and state that the mobile homes are mounted on a carriage with supports.
- Submitted photographs showing the mobile homes within the residential curtilage of the dwelling.
- Email from Mark Leedale dated 07/08/2026 together with internal photographs of both mobile homes. The email confirms that Mobile Home B contains a microwave due to the occupier's working hours and states that the cooker within Mobile Home A is defective, unusable and retained within the unit only because it has not been removed.

By the Council:

- Planning History Records (see above)
- Enforcement History Records – There are no extant enforcement cases at this site and no history of planning application enforcement appeals.
- A site visit was carried out on 14/07/2026 as part of this application and this confirmed the presence of the two caravans as shown in the submitted details.
- Aerial images from the Council's mapping system taken from 2022, 2019, 2015, 2013 and 2010, confirming the presence of 2 caravans as shown in the submitted details.
- Google Earth aerial images dated 06/06/2013, 09/03/2014, 25/03/2017, 23/06/2018, 15/04/2020, 16/07/2021, 06/07/2022 and 09/05/2025.

By third parties:

- Winnersh Parish Council have expressed the view that a temporary arrangement until the proposed new Gypsy/Traveller site is established would be preferable. Members also suggested relocating the mobile homes to a new site once it becomes available.

APPRAISAL

This application is for a Certificate of Lawful Existing Development for the stationing and occupation of two mobile homes within the curtilage of the principal dwelling known as Bentley Lane Piggeries.

In determining an application for a Certificate of Lawful Existing Development, the Local Planning Authority must consider whether, on the facts of the case and the relevant planning law, the matter described in the application 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.

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 submitted application form states that the use of the caravans began more than 10 years before the date of this application. The application form elaborates on this and states that the use begun in 1982 for Unit A, and 2008 for Unit B.

The supporting statement confirms that the application relates to two mobile homes referred to as Unit A and Unit B located within the garden area associated with the principal dwelling at Bentley Lane Piggeries.

The submitted location and site plans show the position of the principal dwelling and the two mobile homes within the same enclosed area of land. The agent states that the mobile homes are located within the residential curtilage of the principal dwelling and that there is no physical subdivision of the land between the dwelling and the mobile homes.

The submitted plans and supporting statement state that both structures are mobile homes mounted on a carriage with supports and are capable of being moved. The plans further indicate that the units contain kitchen units as originally supplied with the mobile homes but do not contain white goods or cooking facilities. Unit B is shown to contain a microwave.

The supporting statement advises that both Units A and B are occupied by immediate family members of the occupiers of the principal dwelling. It is stated that the occupants of the mobile homes rely upon the principal dwelling for day-to-day living requirements including the preparation of meals and use of facilities within the main dwellinghouse.

The supporting information further states that neither mobile home contains facilities capable of supporting independent day-to-day occupation as a separate dwellinghouse and that the occupation of the units remains incidental and ancillary to the use of the principal dwelling.

Evidence Submitted by the Council:

Google Earth aerial images dated 06/06/2013 (left) and 06/07/2022 (right).



The 2013 and 2022 images above demonstrate that the caravans have been located on the site, and this is consistent for all of the Google Earth aerial images between these dates and up to the present day.

A site visit was undertaken as part of the consideration of this application. The site visit confirmed the presence of the two mobile homes in the positions generally shown on the submitted plans.

The Council has also reviewed the submitted plans, photographs and supporting statement. The submitted floor plans identify bedrooms, lounge areas, bathrooms and kitchen units within both structures. The plans indicate that no cooking facilities are present within either unit with the exception of a microwave shown within Unit B.

The planning history of the site has also been reviewed, including Certificate of Lawfulness reference 242131 referred to within the supporting statement. No evidence has been identified which demonstrates that either mobile home has been occupied as an independent self-contained dwellinghouse separate from the principal dwelling.

Following concerns regarding the extent to which the mobile homes may be capable of independent occupation, further evidence was sought from the applicant. Internal photographs of both units were subsequently provided. These photographs show kitchen areas within both mobile homes. The photographs of Mobile Home B show a sink, worktop and a microwave. The photographs of Mobile Home A show a kitchen area containing a cooker; however, the applicant confirms that the appliance is defective and not capable of use. No evidence of additional white goods or cooking facilities has been provided.

Evidence Submitted by Third Parties:

No representations have been received which dispute the information submitted as part of the application.

Assessment:

The main considerations in the determination of this application are:

- Whether Units A and B constitute caravans/mobile homes;
- Whether the units are situated within the curtilage of the principal dwellinghouse;

- Whether the occupation of the mobile homes is incidental and ancillary to the principal dwellinghouse rather than constituting separate independent dwellinghouses; and
- Whether the units have been on site for a period in excess of 10 years.

In order to fall within the statutory definition of a caravan, the structures must satisfy the size, construction and mobility tests contained within the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. The submitted plans indicate that the units are mounted on a carriage with supports and the supporting information states that the structures are capable of being moved. Furthermore, the submitted drawings indicate that the units do not exceed the statutory size limitations. On the evidence available, the Local Planning Authority is satisfied that the structures meet the statutory definition of a caravan.

The submitted site plan shows the mobile homes positioned within the same enclosed area of land as the principal dwelling. The supporting information states that the garden area is shared by all occupiers and that there is no physical subdivision between the dwellinghouse and the mobile homes. Having considered the submitted plans and supporting information, the Local Planning Authority is satisfied that the units are situated within the residential curtilage of the principal dwellinghouse. This was also confirmed during the Planning Officer's site visit that was carried out on 14/07/2026. The site visit confirmed that the mobile homes share access, garden areas and day-to-day functional use with the principal dwelling and that there is no obvious physical or functional separation indicative of a separate planning unit

The submitted floor plans and supplementary photographs show that both units contain bedrooms, bathrooms, lounge areas and kitchen facilities. Whilst these facilities are capable of supporting a degree of day-to-day occupation, the supplementary photographic evidence supports the applicant's assertion that neither unit contains cooking facilities capable of supporting fully independent residential occupation. The photographs show that Mobile Home B contains a microwave only. The photographs also show a cooker within Mobile Home A; however, the applicant has confirmed that the appliance is defective and unusable and has simply remained within the unit. No additional white goods or cooking appliances are evident from the information submitted.

The evidence further demonstrates that the occupiers of the mobile homes are immediate family members of the occupiers of the principal dwellinghouse and that there is a shared use of the dwellinghouse and garden area. There is no evidence before the Local Planning Authority that either Unit A or Unit B operates as a separate planning unit or as an independent self-contained dwellinghouse.

Having considered the evidence submitted with the application, and in the absence of evidence to the contrary, the Local Planning Authority is satisfied on the balance of probabilities that the two mobile homes are caravans located within the residential curtilage of the principal dwellinghouse and that their occupation remains incidental and ancillary to the use of that dwellinghouse. The accommodation does not amount to separate self-contained residential units and therefore does not constitute a material change of use requiring planning permission.

In reaching this conclusion, the Local Planning Authority has had regard to the totality of the evidence including the familial occupation of the units, the shared use of facilities and external areas, the absence of any identified physical subdivision of the site, and the absence of evidence that either mobile home is being occupied or operated independently of the main dwellinghouse.

The application form further states that the use began more than 10 years prior to the submission of the application. The supporting information indicates that the mobile homes have been present on the site for a considerable period of time, and the aerial images reviewed by the council also demonstrates the long-standing presence of the units. However, the supporting statement makes clear that the application is not reliant upon a claim of lawfulness through the passage of time. Rather, the applicant's case is that the stationing and occupation of the mobile homes is lawful because they remain caravans occupied on a basis that is incidental and ancillary to the principal dwellinghouse.

Notwithstanding this, the Local Planning Authority is satisfied on the balance of probabilities that the mobile homes have been present on the site for in excess of 10 years prior to the submission of the application. Accordingly, even if the stationing or occupation of the units were found to amount to a breach of planning control, the evidence indicates that such a breach would be immune from enforcement action through the passage of time.

Accordingly, the Local Planning Authority is satisfied that the existing development described in the application 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 a Certificate of Lawful Existing Development is the balance of probability. Based on the evidence submitted by the applicant and the Local Planning Authority's own observations, it is considered that the two mobile homes meet the statutory definition of a caravan and are situated within the curtilage of the principal dwellinghouse. The evidence demonstrates that the occupation of the mobile homes remains incidental and ancillary to the use of the principal dwelling and does not constitute the creation of separate self-contained residential units.

Furthermore, the evidence indicates that the mobile homes have been present on the site for a period in excess of 10 years prior to the submission of the application. In the absence of evidence to the contrary, the Local Planning Authority is satisfied on the

balance of probabilities that the existing development described in the application is lawful.

It is therefore considered that the application for a Certificate of Lawful Existing Development should be approved.

Date:	10 August 2026
Earliest date for decision:	5 July 2026
Recommendation agreed by: (Authorised Officer)	
Date:	12/08/26