

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	253024
Site Address:	Plot 1, Highfield Park, Eversley Road, Arborfield, Wokingham, RG2 9PP
Expiry Date:	11 February 2026
Site Visit Date:	20 January 2026
Proposal: Application for a Certificate of Lawful Existing Use for the use of land for the stationing of four caravans for residential occupation by Gypsy and Travellers.	

PLANNING HISTORY

Application No.	Description	Decision & Date
960426	Proposed Variation Of Condition 1 on Approval 43644 To Allow Continued Use Of Caravan Site.	Refused 13/02/1997
971705	Proposed Change Of Use Of Land To Permanent Residential Occupation (Gypsy Caravan Site)	Approved 02/04/1998
140883	Application for material change of use of land from GRT pitches to 13 GRT Pitches and erections of washrooms.	Approved 02/11/2015
150893	Application to vary condition 3 of appeal planning consent T/1997/66796 for the change of use of land to permanent residential occupation (Gypsy Caravan Site). Condition 3 (there shall be not more than one mobile home and one caravan stationed on any of the plots) to be changed to 'There shall be no more than three mobile homes and one touring caravan stationed on plots 8 and 9'.	Approved 26/11/2015
161467	Conditions application for the submission of details to comply with the following condition of planning consent F/2014/2032 (140883) dated 02/11/2015: 5. Samples of Materials. 8. Scheme of Landscaping. 9. Details of Landscaping. 10. Bin Stores. 11. Method of Disposal of foul and storm water sewage. 12. Details to direct run-off water. 14. Scheme to deal with Contamination.	Split Decision 12/12/2016
221250	Full application for 17no. gypsy/traveller pitches following re- arrangement of existing 6no. residential mobile home pitches and associated hard and soft landscaping.	Withdrawn 21/07/2022

SITE DESCRIPTION

The application site forms part of the wider Highfield Park complex, which is a large area of land predominantly occupied by an established gypsy/traveller caravan site. The site is located to the west of Eversley Road (A327) on the southern edge of Arborfield.

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.

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 *Gabbitts 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.

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INFORMATION PROVIDED

By the applicant:

- Lawful Development Certificate Application Form
 - States that the use or activity had begun as of 01/06/2005.
- Statutory declaration from landowner.
 - States that they purchased the land in 2005 and have had caravans on it for residential occupation since.
- Statutory declaration from an existing tenant.
 - States that they moved to Plot 1, Highfield Park within the early months of 2015.
- Aerial photographs showing 4 caravans located on site.
 - The aerial images are dated 25/03/2017 & 27/02/2022.
- Submitted location plan and block plan.
 - Showing the location of the site and the siting of caravans.
- CLEUD Statement

By the Council:

- Planning History Records (see above)
- Enforcement History Records – The Council's records indicate that 4 notices were served between 1988 and 1997. Two were complied with and two were appealed. It is noted that the appealed notices related to different plots.
- A site visit was carried out on 20/01/2026 as part of this application and this confirmed the presence of the four caravans as shown in the submitted details.
- Site visit photographs 31/05/2022, 10/03/2023, 24/10/2025, 24/11/2025 & 20/01/2026.
- Aerial images from the Council's mapping system taken from 2022, 2019, 2013 and 2010, confirming the presence of 4 caravans as shown in the submitted details.
- Google Earth aerial images dated 25/03/2017, 23/06/2018, 15/04/2020, 16/07/2021, 27/02/2022 & 09/05/2025.
- Environmental Health Records, including observations on the number of caravans seen during visits.
- Council Tax Records
- "Caravan Count" – this is undertaken by the Council every few years, and visits were also undertaken by the policy team as part of the evidence base for the Local Plan Update.
- Residential and Environmental Compliance Officer comments – confirms the number of caravans seen during site inspections prior to the date of this application.

By third parties:

- None

APPRAISAL

This application is for a Certificate of Lawful Existing Use for the use of the land for the siting of 4 no. residential caravans for gypsy travellers.

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.

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 from states that the use of the land for 4 caravans has been as such for a period of more than 10 years before the date of this application. The application form elaborates on this and states that the use begun on 01/06/2005.

The statutory declaration from the landowner states that Plot 1 was purchased in June 2005 and has had caravans on it for residential occupation since [no number of caravans provided]. He states that the occupiers paid him rent and that the use of the land has been continuous since it commenced. He states that he has added and replaced caravans on the plot and updated the boundary divisions. He states that some residents have stayed for short time periods. He identifies 3 residents:

- Andy Cleeve – 2015 for 10 years (2025).
- Maria Radhu – 12 years [no dates given]
- Jerry Cutler – 15 years (passed away 2024)

He states that Plot 1 has electric water and main foul sewer connections and the Council collects the recycling.

He also states that in 2015 the concrete bases for 4 caravans were updated, and other upgrade works took place in Autumn 2025 including fencing and drainage works.

A further statement was also submitted during the application process, and this confirmed that following the death of a tenant one caravan was temporarily removed from the site during 2025.

The statutory declaration from the existing tenant states that they moved to Plot 1 within 2015 and that their residential occupation within the caravan on Plot 1 has been continuous since it commenced. [It is noted in the Council’s evidence that the site had no caravans on it late in 2025 when redevelopment works were commencing].

The aerial images submitted also demonstrate that 4 caravans were located on site on 25/03/2017 & 27/02/2022. However, aerial imagery only provides a snapshot in time and although it indicates that caravans were sited on the land, it cannot provide information as to the use of the caravans.

The evidence that has been submitted by the applicant is based heavily on the demonstration that the use has been on-going continuously for a period of at least 10 years.

Evidence Submitted by the Council:

Google Earth aerial images dated 25/03/2017 (left) and 09/05/2025 (right).



The 2017 image above (left) demonstrates that 4 caravans were located on the site, and this is consistent for all Google Earth aerial images up to and including 27/02/2022. However, the 2025 image above (right) shows that 1 of the caravans is missing from the plot. This was raised with the applicant, and they confirmed that one caravan was temporarily removed from site following the passing of a tenant, which resulted in the caravan needing replacing. The Council's Enforcement Operation Manager was notified of this at this time (during this application process this was checked with them, and they have confirmed this to be the case). During the site visit carried out on 20/01/2026 it was clear that the replacement caravan was now on site. Given the special circumstances required for the removal and replacement of this caravan, it is not deemed that the temporary removal impacts on how the site has been continuously used in this case.

The submitted 'Proposed Site Plan' for application 221250 indicates that Plot 1 has 3 no. caravans sited. Additionally, the Planning Officer's site visit photos (31/05/2022) for application 221250 only appear to show 3 caravans on plot 1, but it is possible that a 4th caravan could be obscured and hidden in these photos. It is also noted that this application was withdrawn, and therefore the site plan indicating only 3 caravans is not an approved drawing nor did plot 1 form part of the overall application. Further to this, the Council's 2022 aerial image dated 30/04/2022 shows 4 caravans, and the 2022 Google Earth aerial image dated 27/02/2022 also shows 4 caravans.

Site visits were also carried out by the Council on 24/10/2025 & 24/11/2025, during these visits only 1 static caravan was seen on the site, however, it was noted that the

site was being redeveloped during this time, and this aligns with the landowner's statement that works were being carried out in Autumn of 2025.

The Council's Compliance Officer has shared their record of the number of caravans present on Plot 1 during inspections carried out prior to the submission of this application. An inspection on 29 September 2018 confirmed 4 static caravans were on site. A visit on 23 January 2025 again confirmed 4 static caravans on site. And a site inspection on 26 June 2025 confirmed a total of 3 caravans (2 statics and 1 tourer). For the June 2025 visit it is recognised that there may have been 1 less caravan on site following the death of the tenant.

The Compliance Officer has also shared a 1999 Site Licence for a Caravan that allowed only one caravan to be stationed on the site at any one time.

The Council's Council Tax Records only show Plot 1 caravan 1a as being occupied and that all other caravans have been removed. The Council's Revenues Inspector advised that they do not inspect this site and therefore are unable to verify this.

With regards to the "caravan count" undertaken by the Council, visits have also been undertaken by the policy team as part of the evidence base for the Local Plan Update. The most recent observations in 2017, which refers to a plot 1a, records the occupier as being G&T, but no number of caravans was recorded. And in March 2022, plot 1 was found as being occupied by G&T, but again, the number of caravans was not recorded.

Assessment:

There is planning permission (ref: 140883) on Plot 1 (the site) for a residential gypsy/traveller pitch. There is a restriction on the number of caravans (by condition) to restrict the number of caravans on each pitch:

"On each of the 13 permanent pitches hereby approved no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which only one caravan on each pitch shall be a static caravan or mobile home in use for residential occupancy at any one time".

The evidence indicates that the 4 caravans on the site are static caravans.

Having considered the evidence submitted with the application and the contradictory evidence outlined in the Assessment, the Local Planning Authority is satisfied on the balance of probabilities that despite some gaps where there were fewer than 4 caravans on the site, through death of a tenant in early 2025 and redevelopment of the plots in Autumn 2025 the pitch has been used with four caravans (GRT pitches) on the site that are being used for residential purposes in excess of 10 years.

While there were short periods during which fewer than four caravans were present on the pitch, these interruptions do not undermine the overall continuity of the use for the siting of 4 residential caravans for the purposes of the ten-year assessment.

The evidence demonstrates that the use of the pitch for the stationing of four caravans for residential purposes was the normal and established pattern of occupation which can be seen from the approximate layout of concrete bases on the site. These events were inherently temporary in nature and did not amount to a cessation or abandonment of the use and have predominantly arisen from specific identifiable circumstances such as the death of a tenant and replacement/redevelopment of the dilapidated caravans and altering the boundary treatments on the site. There is no evidence of any intention to permanently discontinue the use of the pitch for four residential caravans, nor was the land put to an alternative use during these periods.

Consistent with established principles, continuity does not require uninterrupted or flawless occupation at all times; rather, it requires that the use remains ongoing as a matter of fact and degree. On the balance of probabilities, the Local Planning Authority is therefore satisfied that the brief and explicable gaps in occupation do not break the continuity of the use, and that the pitch has been used for four residential caravans in breach of the condition for a period exceeding ten years.

Planning permission ref. 140883 restricts the number of caravans on each pitch to no more than two caravans, of which only one may be a static caravan or mobile home for residential occupation at any one time. The evidence indicates Plot 1 has accommodated four static caravans used for residential purposes, which is materially in excess of the number permitted by condition. For the reasons set out above, and on the balance of probabilities, this breach of condition has subsisted continuously for a period exceeding ten years prior to the submission of the application. As such, the breach of condition relating to the number and type of caravans stationed on the pitch is immune from enforcement action.

Having considered the evidence submitted with the application and the contradictory evidence outlined in the Assessment, the Local Planning Authority is satisfied on the balance of probabilities that the site (Plot 1) has been used for the stationing of 4 caravans for residential use by gypsy/travellers for at least 10 years prior to the application.

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 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). It is therefore considered that the application for a certificate of lawful use should be approved.

Date:	12 March 2026
Earliest date for decision:	16 January 2026
Recommendation agreed by: (Authorised Officer)	
Date:	13 March 2026