

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	253151
Site Address:	Hedgerley Farm, Nelsons Lane, Hurst, Wokingham, RG10 0RR
Expiry Date:	31 March 2026
Site Visit Date:	27 February 2026
Proposal: Application for a certificate of existing lawful development for the use of the yard area as a mixed use of storage, residential and equestrian, including the parking of vehicles.	

PLANNING HISTORY

Application No.	Description	Decision & Date
980138	Proposed Erection of Stables Barn and Use of Land as Menage	Approved 22/12/1998
990141	Proposed erection of stables and barn (Resiting of barn as approved on 980138)	Approved 12/09/2000
040851	Proposed demolition & rebuilding of barn	Approved 08/06/2004
050598	Proposed demolition of barn and rebuilding to create 2 holiday flats on first floor with storage and tack room on ground floor associated with keeping of horses at the adjoining stables,	Refused 23/03/2006
050955	Proposed demolition of existing barn and rebuilding of new barn with rooflights	Approved 26/07/2005
072347	Proposed demolition of barn and erection of building to create to holiday flats on first floor with tack room and storage on ground floor as sociated with keeping horses in adjoining stables.	Refused 03/05/2007
130122	Conversion of barn into a four-bedroom dwelling with associated residential curtilage.	Refused 07/10/2013 Dismissed at Appeal 29/07/2014
130431	Proposed demolition of existing barn and rebuilding of new barn with rooflights.	Approved 28/03/2013

142757	Prior approval submission for the conversion and change of use of existing agricultural building to one dwelling (Use Class C3).	Refused 17/02/2015
251835	Application for a certificate of existing lawful development for a change use of existing barn to a commercial workshop/store (ground floor only) and residential dwellinghouse (first floor only).	Approved 26/09/2025

INFORMATION PROVIDED

By the applicant:

- Lawful Development Certificate for an Existing Use Application Form states that the use of the yard area as a mixed use of storage, residential and equestrian, including parking of vehicles began more than 10 years ago.
- Location Plan.
- Site Plan.
- Outbuilding Plans.
- Planning Statement.
- Statutory Declaration (Mr Kevin Corner)
- Copy of Certificate of Lawful Existing Use or Development Decision Notice 251835.
- Email correspondence between Kevin Corner and Jerry Hedley (WBC Planning Enforcement officer) dated 23/08/2009.
- Aerial images.
- A copy of Appeal Decision APP/X0360/A/14/2216096.

By the Council:

- Planning history checks.
- Site visit photographs (27/02/2026).
- Land Registry search - Official Copy (Register) - BK334220.
- Land Registry search - Official Copy (Title Plan) - BK334220.
- Building Regulations (Tascomi) Application number 110939 (New barn).
- Decision Notice for application F/2013/0267 (130431)
- Planning Officer site visit photographs 09/09/2025 (application 251835).
- Statutory Declaration from Mr K Corner (application 251835).

By third parties:

- None.

APPRAISAL

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.”

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 (formerly four years) beginning with the date on which the operations were substantially completed.

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 ten years beginning with the date of the breach.

Regarding the above, Section 5 of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 states that the amendments made to the 1990 Act by section 115 of the 2023 act (time limits for enforcement) do not apply where in respect of a breach referred to in section 171B(1), the operations were substantially completed before the day on which that section comes into force (25/04/2024). This means that where operational development has been carried out before 25/04/2024 the four year rule still applies (except where the operations has facilitated a material change of use).

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.

Relevant details of the proposal:

The equestrian use of the site was permitted under application 990141 (Approved 12/09/2000) for the ‘Proposed erection of stables and barn (Re-siting of barn as approved on 980138)’. The history is expanded upon in the appraisal. Given the barn had an equestrian tie, it can be presumed that the yard was also in equestrian use as a starting position.

The proposal relates to a change of use to a mixed use of storage, residential and equestrian. The change of use does not have planning permission, and the lawful use is being sought through the passage of time. It is proposed that the change of use occurred in September 2007.

APPRAISAL

The application is for a Certificate of Lawful Existing Use to regularise the use of the land as a mixed use comprising residential, storage and equestrian. 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 most cases, development becomes immune from enforcement if no action is taken:

- within ten 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 ten 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 four years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place before 25 April 2024;
- within four years for an unauthorised change of use to a single dwellinghouse where the change of use took place before 25 April 2024.
- within ten years for any other breach of planning control (essentially other changes of use).

In the case of this Certificate, it must be demonstrated that the use as a mixed-use site has been on-going continuously for at least ten years prior to the date of this application, the relevant period being from 24/12/2015 to 24/12/2025.

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”.

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 Applicant’s Evidence:

Application Form

The Lawful Development Certificate for an Existing Use Application Form states that it seeks to confirm the lawfulness of the following development:

“The use of the yard area as a mixed use of storage, residential and equestrian, including the parking of vehicles”.

The Application Form states the use began more than 10 years before the date of the application.

They state that the activity is not in breach of any condition.

They state the mixed use commenced on 09/09/2007.

They state that there has been no interruption in use.

They state that there has been no material change of use since the start of the use for which a Certificate is sought.

They state that there is no change in the number of residential units.

Planning Statement

The Statement by ET Planning sets out the relevant legislation for determining a Certificate application and summarises the evidence submitted.

Site Location Plan

While the block plan indicates the location of the proposed development as three distinct areas (equestrian, residential and storage), an email from planning agent (Emily Temple) dated 09/04/2026 confirmed that the proposed uses are mixed across the site, rather than as distinct areas.

Statutory Declaration from Kevin Corner dated 17/12/2025

The evidence submitted relies on a Statutory Declaration provided by the applicant (Mr Kevin Corner), who co-owns the land and operates his business from the land (K&N Contracts Ltd). In addition, the statutory declaration submitted in application 251835 from the landowner (Mr K Corner) dated 06/06/2025 confirms that in 2004 Mr Corner began forming a paving making business, purchasing equipment and having it transported to the site.

The statutory declaration submitted by Mr K Corner as part of this application states how areas of land around the barn have been used for business purposes for the use as storage and vehicle parking and refers to the submitted email correspondence between a Wokingham Borough Council Enforcement Officer, Mr Jerry Hedley and Mr Corner (Appendix 4).

On the 21st of August 2009 Mr Jerry Hedley visited the site in relation to enforcement case RFS/2009/00366 for the construction of a new access. While on site, the officer documented the presence of the plant, machinery, building materials and mobile home associated with the paving business, corroborating the use of the site to store these items (submitted email correspondence between Kevin Corner and Jerry Hedley, dated 23/08/2009). The email also refers to the *retention* of the land for storage/yard use. Paragraph 4.19 of the Planning Statement states that the comment by the WBC Enforcement Officer confirms that the land has been in use for storage associated with the landowner's business since at least 2009.

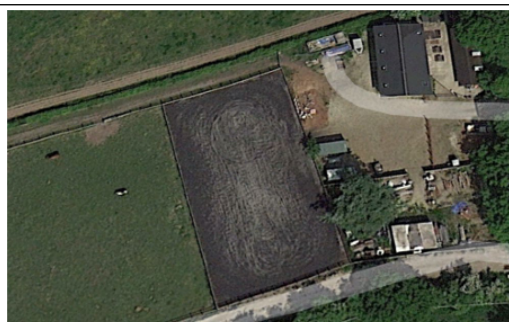
The statutory declaration by Mr K Corner states that a mobile home was placed on site in September 2007. Mr Corner states that he informed Wokingham Borough Council that someone would be living on the site in the mobile home as the construction of the barn was undertaken. This suggests that the mobile home was there under permitted development as it was a temporary use until the barn was completed.

Mr Corner states that a council tax account (ref: 41534715) was issued in September 2011, and council tax has been paid in full since then to date.

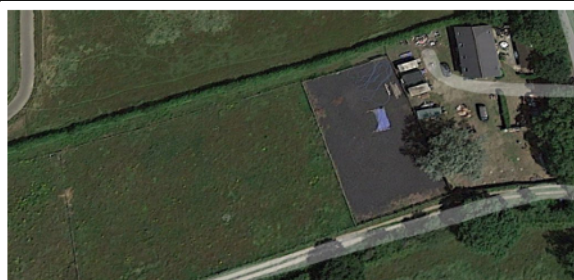
Mr Corner states that the yard has been in continuous use in a mixed use of equestrian, residential and storage since 2007.

Aerial Imagery

Appendix 5 of the submitted Planning Statement four aerial images dated from 2013 to 2025. The Planning Statement states that the aerial images illustrate that as of June 2013 the land has been used for storage, residential and equestrian purposes. However, the statement does not describe what the images show to demonstrate the uses.



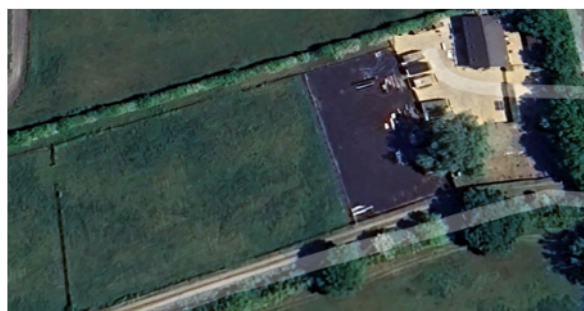
07/2013



07/2021



03/2017



05/2025

Figure 1: Appendix 5 of Planning Statement

Appeal Decision APP/X0360/A/14/2216096

The Inspectors Appeal Decision has been submitted to support the application and references paragraph 19 of the Inspector's report:

19. In arriving at this conclusion I have taken note that at present trips are generated by the appellant when visiting the site on business. I consider however that the trips generated by a family living at the site for things such as shopping, schooling and entertainment would exceed the number of those currently generated.

Figure 2: Paragraph 19 of Inspector Appeal Decision APP/X0360/A/14/2216096

The Planning Statement acknowledges that the 'type' of business is not referred to but alleges that 'Whilst this statement does not directly specify the precise nature of the business use of the site, it clearly acknowledges that business-related activities were taking place at the time of the appeal. The Inspector's reference to trips generated: "*when visiting the site on business*" provides evidence that the land was being used, at least in part, for commercial purposes during the period highlighted within the statutory declaration'.

It is noted that paragraph 20 of the Inspectors report for Appeal APP/X0360/A/14/2216096 states that the material finish and fenestration of the barn was of a 'type and size commensurate with its equestrian use' at the point of the Inspectors site visit in July 2014.

Photographs

Paragraph 4.14 of the Planning Statement refers to 'Appendix 3: Photos of Use: *'Photos have been attached showing the current use of the site'*, however, no photographs were submitted as part of the application.

The Council's Evidence:

The applicant owns all the land within the red line boundary, lives on the first floor of the barn and operates his business (K&N Contracts Ltd) from the site. There is one access to the site from Nelsons Lane.

The land surrounding the building (barn) comprises the building sited centrally, access to the southeast and areas to the north and west of the building.

Storage Use

The site visit conducted by the Planning Officer on 27/02/2026 evidenced that the land to the north and west of the building is in part, being used for commercial storage, with four storage containers sited in the gravelled yard to the north of the building. The storage containers stored items associated with the applicant's building company such as timber, work benches and glazing. The area to the west of the building had materials being stored in connection with the commercial business. These included items such as bricks, tiles and fencing.

Aerial images demonstrate that across the relevant time period, storage containers appear to have been in situ in various positions and at various points in time across the site to the north and west of the building:



Figure 3: World Imagery Wayback March 2014

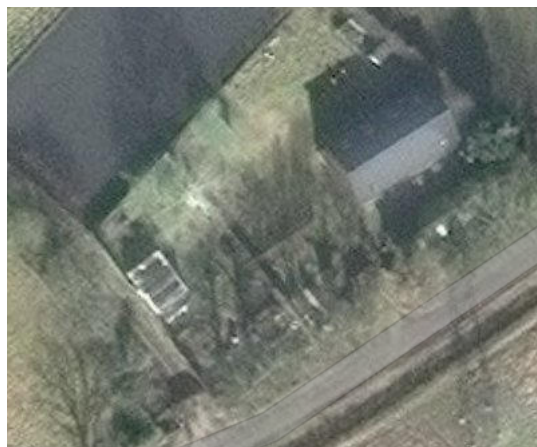


Figure 4: World Imagery Wayback February 2018



Figure 5: World Imagery Wayback February 2023



Figure 6: World Imagery Wayback August 2025

While the images indicate that some form of storage containers/structures have been in situ across the site to the north and west of the building at various points in time, it is not clear from the aerial photography what use this paraphernalia may be associated with.

However, at the time of the WBC Planning Enforcement Officer visit on 21/08/2009 in relation to case RFS/2009/00366, the WBC Enforcement Officer emailed Mr Corner and wrote in relation to the '*retention of a storage/yard*'.

The closest available image of the site to the time of the WBC Enforcement Officer visit is from March 2009 on Google Street View:



Figure 7: Google Street View March 2009



Figure 8: Google Street View March 2009

The images display a caravan, two containers to the north, a tractor plus two other containers along the front boundary.

Therefore, while it is not evidenced what has been stored within the containers across the required time period, the Council does not hold any information which contradicts that the containers that have appeared and moved around the site were not in connection with the applicant's building company.

Furthermore, the Inspectors Appeal Decision (July 2014) has been submitted by the applicant and refers to paragraph 19. Paragraph 19 of Appeal Decision APP/X0360/A/14/2216096 reads:

"In arriving at this conclusion, I have taken note that at present trips are generated by the appellant [to the application site] when visiting the site on business".

The Inspector does not reference the nature or exact location of the business activity, and it is noted that the Location Plan submitted for refused application 130122 (the subject of the appeal) does not incorporate the western area of land included within this application:

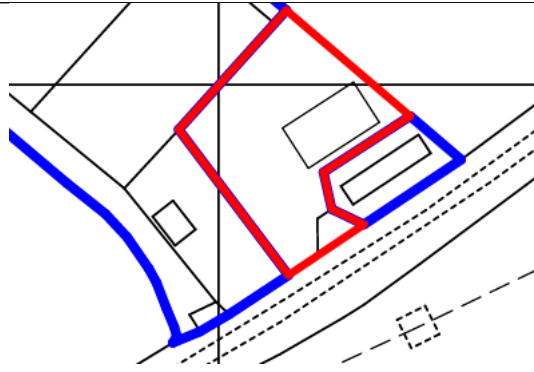


Figure 9: Location Plan (Stanfords VectorMap) submitted as part of application 130122

However, the Inspector comment does confirm that a business was operating from part of the application site in July 2014. Therefore, the site was in part, in a mixed use of equestrian and business storage in July 2014.

NOTE:

The laying of the hardstanding at some point between February 2023 and August 2025 does not form part of this application in terms of the description. See Figure 10. However, it does indicate the area became more formalised at this time leading to the inclusion of the land as residential use.



Figure 10: Plan showing hardstanding in the approximate location edged in blue (World Imagery Wayback)

Residential Use

The Planning Officer site visit photographs (dated 27/02/2026) evidence that on the land to the west of the building, along with the storage of building materials, residential wheelie bins were being stored within the area. Although this is temporary in nature and not a material change of use of the land.



Figure 11: Photographs from officer site visit 27/02/2026

The lawful use of the first-floor of the barn as a dwelling was granted permission under Certificate of Lawful Existing Use 251835 that demonstrated that the residential use as a dwelling had been in continuous since June 2018.

While the barn itself does not form part of this application, when viewed as a whole, and as a matter of fact and degree, it is not possible to say that physically separate areas of the whole site are occupied for unrelated purposes. Although the barn is not part of this application, it is not realistic to suppose that no activity associated with the residential use of the barn will take place outside its footprint. It is clear, for example, that car parking and a small garden area associated with the residential occupation of the barn takes place in the yard to the north of the building and it is presumed that these activities would have appeared at the same time as the use of the barn as a dwelling (June 2018). Garden furniture and the applicant's parked vehicle was observed in the yard during the case officer site visit.



Figure 12: Photographs from officer site visit 27/02/2026

While the first-floor of the barn is a lawful residential dwelling, no information has been submitted to evidence how the land around the barn is being used for residential purposes, other than:

- Paragraph 4.8 of the Planning Statement which states '*During September 2011, Mr Corner notified Wokingham District Council that someone would be residing on the site as construction of the new build barn was to commence. On September 21st 2011, a council tax account, 5 CLEUD Statement 24 December 2025 numbered 41534715 was created. The yard was therefore also used for residential purposes since September 2007 including the residential parking of vehicles*'.

However, this provides evidence that someone lived for a temporary period in a caravan on the land during the construction of the barn building which would have been permitted under Schedule 2, Part 4, Class A (Temporary buildings and structures) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- Paragraph 6 of the signed and dated Statutory Declaration by Mr Kevin Corner which states: '*Since 2007 to present day, the use of the yard has been continuously in a mixed use for equestrian, residential and storage uses*'.

Again, no evidence has been submitted to support this claim.

Equestrian Use

It is clear from reviewing the site's planning history and aerial imagery that the menage to the north of the yard, and the stables to the south of the building have been in situ in excess of ten years and permitted under application 990141 for 'Proposed erection of stables and barn (Re-siting of barn as approved on 980138)' and was approved on 12/09/2000.



Figure 13: Google Earth Imagery March 2014

However, while the wider site is historically equestrian in use, no substantive evidence has been provided to demonstrate that equestrian use has continued during the relevant ten-year period or that it remains part of the current lawful use of the site.

In terms of the lawful use of the barn; Mr Corner and his wife submitted a planning application under reference F/2005/4964 (050955) which was approved on 28/07/2005 for the demolition and rebuilding of the barn due to its poor structure. The approved use of the barn was for the storage of items in connection with the equestrian use of

the site. Therefore, it can be presumed that the equestrian use was in place prior to 2005.

The rebuilt barn was completed in 2012. A retrospective consent for windows obtained under planning application number F2013/0267 (130431) was obtained on 28/03/2013. A condition ensuring the equestrian use of the barn was also attached to the permission; Condition 2 of the permission reads:

2. The barn shall only be used for the storage of hay, straw and ancillary equipment in connection with the equestrian use of the site.

To safeguard the character and appearance of the area.

Relevant Policies: Core Strategy policies CP1, CP3 and CP11

Figure 14: Snip from Decision Notice 130431

However, the Officer Report for Certificate application 251835 confirmed the barn that had originally been constructed for equestrian use no longer serves any equestrian use; It had been demonstrated and approved that the first floor had been established as a dwellinghouse since June 2018, and the ground floor had had been in commercial use since at least September 2013.

In addition, the site visit made by the Planning Officer (27/02/2026) evidenced:

- No horses or ponies were present on site.
- The stables were unoccupied and appeared to be used for the storage of domestic items and residential paraphernalia (plant pots, new windows to be installed in the barn).
- There was no evidence of active equestrian use, such as feed, bedding, tack or manure storage.

The fact that the lawful status of the barn is now residential and commercial, further demonstrates a progressive shift away from equestrian across the application site.

Other than the existence of the stable block and menage, no evidence demonstrating the ongoing keeping of horses or equestrian activity has been submitted.

On the balance of probability, the evidence indicates that the equestrian element of the claimed mixed use likely ceased in 2018 when the permanent occupation of the barn occurred, and it has not been demonstrated to have continued throughout the relevant period. The equestrian use has therefore not been shown to form part of the lawful use of the site (red line) on the date of the application (24/12/2025). The description of the use is therefore inaccurate and not supported by the evidence.

A new planning chapter began in June 2018 when permanent residential occupation of the barn began. Prior to 2005 the use of the red line area was established as equestrian. By July 2014 this had become a mixed use of equestrian and business storage. By June 2018, the red line area had become larger and a mixed use of residential and business storage, however, no equestrian use and would have required planning permission.

The evidence indicates a mixed use of commercial storage and residential within the application site however, this has occurred within the last 10 years from the date of the application and the use of the yard and land for this purpose is unlawful.

Conclusion:

The use of the land for residential, equestrian and storage has not been occurring for a consecutive period of ten years based on the evidence provided and the Local Planning Authority's own information.

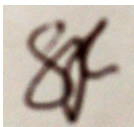
The Public Sector Equality Duty (Equality Act 2010):

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, the material change of use of the land for residential, equestrian and commercial storage purposes has not been occurring for a consecutive period of ten years.

The Certificate is refused for the reasons set out in this report.

Date:	24 March 2026
Earliest date for decision:	24 February 2026
Recommendation agreed by: (Authorised Officer)	
Date:	16.4.26