

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	251221
Site Address:	Land To Rear Of 302 And 304 London Road Wokingham RG40 1RD
Expiry Date:	11 February 2026
Site Visit Date:	7 July 2025
Proposal: Application for a certificate of existing lawful development for a car repair business within the workshop and adjoining yard area.	

RELEVANT PLANNING HISTORY (including the wider site)		
Application No.	Description	Decision & Date
222556 (rear of 306 London Road)	Full application for the proposed erection of 1no. two bedroom dwelling.	Conditionally Approved – 11/05/2023
220367 (302 London Road)	Full application for the proposed conversion of existing integral dog kennel to an end of life/care room, the erection of a single storey side/rear extension to form replacement kennel, and the retention of 3no. additional overspill customer parking spaces to the rear of the building.	Withdrawn – 25/02/2022
200013	Full application for the erection of 2no two storey dwellings and associated works following demolition of 1no existing outbuilding.	Refused – 03/03/2020
182277	Application for a Certificate of Existing Lawful Development for car sales & car repair workshop.	Refused – 08/02/2019
173194 (302 London Road)	Full planning application for the proposed raising of roof space to create first floor residential accommodation with front and rear dormers extensions plus change of use of ground floor from residential to vet surgery following erection of single storey rear extension.	Conditionally Approved – 12/03/2018
171226	Application for a certificate of existing lawful development for use of the building in the north western rear corner and part of the building on the rear boundary for a car sales and repair workshop (Class B2 & Sui Generis).	Refused – 20/07/2017
171225	Application for a certificate of existing lawful development for the erection and use of a dwelling annexe at the site.	Approved – 20/07/2017

43003 (302 London Road)	Single storey rear extensions to provide enlarged kitchen and sitting room.	Approved 21/07/1994	–
39878 (304 London Road)	Erection of Replacement Chalet Bungalow	Approved 30/09/1992	–

SITE DESCRIPTION

The application site comprises part of a parcel of land located to the rear of Nos. 302-306 London Road, Wokingham. The site is accessed via a gated driveway to the side of No.304 which is shared with the immediately adjoining land users to the east including the 'annexe', a self-contained residential dwelling to the rear of No.304, and a recently constructed dwelling to the rear of No.306. A building, described as a workshop within the submission, is sited in the north-western corner of the site on land which was formerly part of the residential plot of No.302 and the remaining area is hard surfaced.

The site is within a Major Development Location (Wokingham) and is not subject to any wildlife designations, although it does partly fall within an identified bat roost habitat suitability area. There are no listed buildings at the site and the property is not within 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order (2015)).

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."

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.

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.

The Panton case was considered further by the Courts in Secretary of State for the Environment, Transport and the Regions v Thurrock BC [2002] EWCA Civ 226. In this case the Court of Appeal considered that the rationale of immunity from enforcement was that throughout the whole of the ten year period of unlawful use the LPA, although having the power to take enforcement action, had failed to do so. So, if at any time during the relevant period the authority would not have been able to take enforcement proceedings in respect of the breach (because for example, the unauthorised use had temporarily ceased) then any such period could not count towards the ten year period which gives rise to immunity.

The effect of the decision in Thurrock is to require a far more stringent test of immunity than had previously been thought following the decision in Panton. In particular, the decision means that if an unlawful use ceases and is then recommenced, the ten-year period required for immunity begins on the act of recommencement. For an unlawful use to obtain immunity from enforcement it has to be exercised continually and without significant interruption for the whole of the ten year period.

The question is therefore whether an interruption of an unlawful use is enough to defeat any claim of immunity from enforcement proceedings. A short period may be regarded as a continuing use; a longer period may not. The Courts have held that this question is a matter of fact and degree for the decision maker in every case.

INFORMATION PROVIDED

By the applicant:

- Lawful Development Certificate Application Form:
 - States that the development applied for begun on 31-12-1998.
 - States that there has been no interruption or material change of use of the land since the start of the use applied for.
- Planning Statement:
 - States that the submitted “statutory declarations” (appendices 1-10) demonstrate that the use applied for has been continuous for in excess of 20 years. *Officer’s Note: Appendices 1-9 have not been treated as Statutory Declarations in this assessment as they do not follow a prescribed format with reference to the Statutory Declarations Act 1835.*
 - States that aerial photographs (appendix 13) provide supporting evidence that the use has been continual for at least 12 years.
 - Refers to a 2021 appeal decision (appendix 11) and states that the Inspector confirmed that the Council had already accepted that the use behind No.302 London Road was in lawful use for car repairs, and that the Council has consistently accepted that the land is its own distinct/defined use.
 - States that the owner (the applicant) continued to operate the car repair business during the COVID period.
- Appendix 1 – Signed Statement of the applicant (P Stelling) dated 04/03/2025.
- Appendix 2 – Signed Statement of C Palk (Auto Solutions Ltd) dated 07/03/2025.
- Appendix 3 – Signed Statement of R Herbert (MOTORRIFIC LTD) dated 14/04/2025.
- Appendix 4 – Signed Statement of K Thompson dated 15/04/2025.

- Appendix 5 – Statement of T Shepherd (Marine Solutions South Ltd) dated 22/04/2025.
- Appendix 6 – Witnessed Statement of T Kinson (undated).
- Appendix 7 – Witnessed Statement of K Stelling dated 15/04/2025.
- Appendix 8 – Signed Statement of L Thompson dated 04/03/2025.
- Appendix 9 – Witnessed Statement of D Bennett (Summercombe No87 Ltd) dated 14/04/2025.
- Appendix 10 – Signed Statutory Declaration of C Keen dated 21/05/2025.
- Appendix 11 – Copy of Appeal Decision ref APP/X0360/C/20/3262299 dated 01/06/2021 (relating to an Enforcement Notice served on land to the rear of 306 London Road).
- Appendix 12 – document containing:
 - Photograph of a card issued by the Environment Agency dated 04/08/2022 relating to Regulation 28 of the Waste (England and Wales) Regulations 2011.
 - Photograph of a Goods Vehicle Identity Disc (expiry date 30/11/2026).
 - Photograph showing two trade plates.
 - Photograph of a Certificate of Motor Insurance dated 03/08/2024.
 - Various undated photographs showing the application site and its immediate surroundings.
- Appendix 13 – Extracts of Google Earth Aerial Images dated May 2025, February 2022, April 2020, June 2018, March 2017 & June 2017 showing the application site.
- Drawing titled 'Site Location Plan'

Following discussions with the applicant, additional evidence was submitted:

- Signed Letter from S Tongue (Mulberry House Vets) dated 20/02/2023.
- Signed Letter from S Tongue (Mulberry House Vets) dated 21/10/2025.
- An amended copy of the various photographs included within Appendix 12 with annotated dates (year only).
- Photographs with annotations taken in 2020/21 (exact date unknown) showing the area to the south of the workshop building and the access.
- Additional Signed Letter from the applicant dated 21/10/2025.
- Signed Letter from L Brown (Forest MOT & Service Centre Ltd) dated 21/10/2025.
- Signed Letter from M&J Autos dated 20/10/2025.
- Signed Letter from PCS Logistics Limited dated 24/10/2025.

By the Council:

- Planning History records (see summary above):
Application ref 220367
 - Plans numbered 21.33-100 Rev.B (Location Plan), 21.33-101 Rev.C (Existing Site Plan) & 21.33-111 Rev.G (Proposed Site Plan).
 - Email thread between Case Officer and Planning Agent dated 21-24/02/2022: includes discussion on 'retrospective works at the rear' and stated intention to re-instate the former boundary.
- Application ref 200013
 - Drawing numbered PL-10 (Location Plan)

- Site visit photos dated 22/01/2020.
- Officer's Report refers to two small buildings to the rear of the site, with one described as *"occupied unlawfully as a car sales and repairs workshop and the other lawfully as a dwelling"*.
- States in relation to the workshop building that there would be no dispute that the building itself has existed for more than four years (notwithstanding the refused certificate relating to its use).

Application ref 182277

- Relating to the same application site, was refused for the following reason: *"It has not been demonstrated that, use of land at the rear of 302 London Road and at 304 London Road, Wokingham has been used for car sales and a car repair workshop for a consecutive period of at least ten years."*
- Drawing numbered PL-01 (Location Plan)
- Site visit photos (date unknown)
- Officer's Report concluded that there was a significant amount of doubt that the use of the site for car repairs and sales had commenced and been in continuous for ten years prior to the date of the application.

Application ref 171266

- Relating to the same application site was refused for the following reason: *"The applicant has failed to demonstrate on the balance of probabilities that the subject land has been used for car sales and repair for a continuous period of ten (10 years)."*
- Drawings numbered PL-01 Rev.A (Location Plan) and PL-02 Rev.A (Topographic Survey).

- Enforcement History records:

RFS/2022/087613

- Enforcement Case raised on 21/09/2022 – alleged breach of planning control: "Storage of vehicles outside of what has been considered the area that is immune from enforcement".
- Various email correspondence between Enforcement Officers, the applicant and their representatives discussing the site and its use.
- Site visit photos and notes dated 23/10/2024; 12/02/2024; 10/10/2023; 21/03/2023; 20/02/2023; 16/12/2022.
- 16/08/2023: email to Enforcement Officer from Business Rates which states their records show no businesses operating from 304 London Road.
- 21/04/2023: email to Enforcement Officer from Business Rates which states that there is 1 Business Rated entry for P Stelling T/A K&P Motors at Workshop R/O 304 London Road, started on 01/04/2015.
- First Planning Contravention Notice (PCN) served on 07/03/2023 returned by the applicant on 14/04/2023. Alleged breach of planning control: "Without planning permission: the material change of use of land and building to commercial use and storage."
- Second Planning Contravention Notice (PCN) served on 09/05/2023 returned by the applicant. Alleged breach of planning control: "Without planning permission: the material change of use of land and building to commercial use and storage."
- Letter to the applicant from the Enforcement Officer dated 10/01/2023.

- Letter to the applicant from the Enforcement Officer dated 16/12/2022.
- Letter to the applicant from the Enforcement Officer dated 23/11/2022.
- Email correspondence dated 14/11-18/11/2022 between the Enforcement Officer and the Enforcement Operational Manager discussing the case.

RFS/2025/090325: Photograph of site's frontage showing an advertisement board sited on highway land dated 29/04/2025.

RFS/2025/090179: Photograph of site's frontage showing an advertisement board sited on highway land dated 07/03/2025.

RFS/2024/089125:

- Photograph of site's frontage showing an advertisement board sited on highway land dated 20/02/2024.
- Photograph of site's frontage dated 05/03/2024 showing that the advertisement board has been removed.

RFS/2023/089004:

- Site visit photos and note dated 18/06/2024
- Site visit photos dated 25/06/2024

RFS/2023/088869: Site visit photos and notes dated 09/11/2023

RFS/2023/088808: (relating to building works at 302 London Road): Site visit photos dated 10/10/2023

RFS/2022/087097: (relating to building works at 302 London Road): Site visit photos dated 10/03/2022

RFS/2022/08703: (relating to building works at 304 London Road): Site visit photos dated 10/03/2022

RFS/2020/085605:

- Three Enforcement Notices were served on the wider site on 02/10/2020. Notice A related to unauthorised storage of vehicles and other equipment on land to the rear of 306 London Road (adjacent to the application site); Notice B related to unauthorised CCTV cameras on land including the application site; Notice C related to unauthorised pole mounted floodlights on land at 302 London Road (adjacent to the application site).
- Expediency Report dated 02/10/2020.
- Email correspondence between Development Management Service Manager and Councillors dated 29/11/2020.
- Letter to the applicant from the Enforcement Officer dated 26/06/2020.
- File note dated 25/06/2020 containing a collection of site visit photographs dated 2017, 2018, 2020 (Jan) and 2020 (May).
- Appeal Decision ref APP/X0360/C/20/3262299 (relating to Notice A) issued 01/06/2021.

RFS/2020/085516: Email correspondence dated 24/03/2020 & 15/04/2020.

RFS/2019/085254: Site visit photos dated 08/10/2019 and 13/11/2019 showing the advertisement board on the site's frontage in situ and then removed.

RFS/2017/083770:

- Letter from Enforcement Officer to site owner/occupier dated 18/08/2017
- Letter from Enforcement Officer to site owner/occupier dated 17/07/2018
- Various email correspondence between Enforcement Officer and the Applicant's Representatives dated July 2018 to December 2018 prior to the submission of application ref 182277.

RFS/2016/083158: Site visit photos dated 02/11/2016.

RFS/2012/00491: Undated file note relating to use of land to rear of 304 London Road.

- The Case Officer carried out a site visit on 07/07/2025 and observed the nature of the use of the land.
- Site visit photos (07/07/2025)
- Aerial images obtained from the Council's mapping system and Google Earth.

By third parties:

Representation from Cllr Chris Cooke:

- Objects to the application, wishes for it to be reported to the Planning Committee if recommended for approval. *Officer's Comment: This type of application cannot be listed to Committee under the Council's Constitution as it requires a test of lawfulness, and material planning considerations cannot be taken into account in the assessment.*
- Lack of evidence for 10-year continuous use of the site for car repairs – evidence provided is vague, inconsistent and lack corroborating documentation. Aerial imagery and site history contradict the claim of uninterrupted use.
- Misleading and inaccurate application details – submission contains factual inaccuracies including incorrect ownership dates and omission of enforcement history. The red line includes shared access and land used for other purposes, which undermines the claim of exclusive use for car repairs.
- Concerns relating to environmental and safety concerns, highway safety concerns and contravention of local planning policy. *Officer's Comment: This application requires an assessment of lawfulness of the matter applied for only, material planning considerations cannot be taken into account.*
- Weight of personal observations – local neighbours have observed multiple unrelated business operations on-site including sale of Christmas trees, storage of caravans and machinery and use by the adjoining veterinary practice.

Representation from Wokingham Town Council: Object to this application as the applicant has not proven that the site has 10 years continuous as a car repair business.

6 representations received (not including duplicates) from local residents:

Lack of evidence of continuous use for car repairs:

- The submitted Certificate of Motor Insurance only covers motor trading, not proof of a repair business.
- No consistent signage or visible business presence when reviewing Google Street View. Vehicles shown on Google Street View for sale are not linked to the repair business.

- The submitted aerial photo dated May 2025 is inaccurate as it does not show the completed bungalow to the rear of 304/306 London Road. All other aerial imagery submitted should be discounted on this basis. *Officer's Comment: This is acknowledged however the bungalow sits outside of the application site and is not relevant to this application. In this assessment Officers have independently reviewed aerial images.*
- Seasonal Christmas tree sales business has regularly occupied the site for over ten years, this activity takes up a large area of the site and blocks access to the rear and workshop area.
- Part of the site was previously used by Mulberry House Veterinary Practice adjacent for overflow car parking, this area was fenced off during this period.
- A lack of objective documentation has been submitted that would corroborate the application (e.g. licences, accounts, certification and tax records).
- Submitted letters are vague, misleading and circumstantial – no reference to specific areas within the site or dates works took place, no supporting evidence provided. They do not demonstrate continuous use.
- Aerial photographs taken annually do not demonstrate continuous use.
- Periods of time where activity has appeared to cease within the last ten years including during the COVID pandemic and when previous applications were submitted to the Council.

Inaccurate or misleading application details:

- Submitted plans do not show the recently completed bungalow to the rear of 304/306 London Road. *Officer's Comment: This is acknowledged however the bungalow sits outside of the application site and is not relevant to this application.*
- Submitted photos lack date/time stamps and are not reliable evidence.
- Submitted photos include unrelated activities such as building works, and of vehicles that have been observed to drive around the site.
- Submitted photos appear to show cars parked (and other operations) on land outside of the application site.
- Previous applications were refused on grounds of vague and inconsistent evidence; this should apply in this case.
- Application form is incorrectly filled out, including the date the use applied for commenced. The site was residential garden only prior to the applicant purchasing the land in 2006.
- Enforcement history has not been referred to in the submission.
- Relevance of EA issued card is unclear, appears to relate to a 'Carrier of Hazardous Waste'.

Nature of use/mixed use of site:

- Activities appear to be informal or hobby-based, not commercial.
- Vehicles including, artics, caravans and horse boxes and construction equipment have been stored on-site, not indicative of a repair business.
- Regular and frequent use of a forklift truck has been observed, inconsistent with typical car repairs operations.
- It appears that a mix of uses have been occurring on the site over the last few years.
- Website listings (e.g., ukvehicledisposal.co.uk) show recovery trucks parked on-site and states its open 7 days a week.

The wider site's planning history, including recent appeals, demonstrate that parts of the site fall outside of the planning unit associated with the car repairs business (direct reference to APP/X0360/C/20/3262299 dated 1 July 2021).

Fidler v Secretary of State for Communities and Local Government (03/02/2010) states that to qualify for an LDC any current use of a site/building must be visible and in the open. The site is obscured from public view. *Officer's Comment: This court judgement has been reviewed by Officers, it does not make this statement. The judgement discusses deliberate concealment of a breach of planning control and whether it can affect when the construction of a building is lawfully complete.*

Concerns relating to environmental and safety matters, highway safety, neighbour amenity and contravention of local planning policy. *Officer's Comment: This application requires an assessment of lawfulness of the matter applied for only, material planning considerations cannot be taken into account.*

Following the submission of additional evidence on 22/07/2025, 2 further representations from local residents were received:

- Veterinary practice had sole use of part of the site when it was fenced off, any use by the applicant during this time period was very restricted.
- Vehicular access from 304 London Road to this part of the site was severed during this time period, very narrow access from 302 London Road.
- Recent planning history for 302 London Road states the use of the fenced land commenced 30/06/2021 – use by the practice ceased in March 2022.
- The letter is inaccurate, the practice is open on Saturdays.

APPRAISAL

The application is for a Certificate of Lawful Existing Use to regularise the use of the land shown on the submitted details for a car repair business. 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 10 years prior to the date of this application, the relevant period being from 22.05.2015 to 22.05.2025.

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".

Where the burden of proof is on the applicant, the relevant test of the evidence on such matters is 'the balance of probability.' 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.

It is acknowledged that 2no. existing Lawful Development Certificate applications relating to the use of the application site have previously been assessed by the Council, 171226 refused on 20/07/2017 and 182277 refused on 08/02/2019. Both applications

were refused as it had not been demonstrated that the use of the land for car sales and repairs had been continuous period of ten years. The use of the site for car sales has not been claimed within the current application.

The application site is defined by the red line shown on the submitted Location Plan, see **Figure 1** below. It is noted that the area subject to this application is smaller than the area considered under application ref 182277 which also included the frontage of No.304, the shared access and a larger area to the rear of No.304 (see **Figure 2** below).



Figure 1: Extract of submitted Location Plan **Figure 2: Extract of Location Plan submitted under application ref 182277**

When the workshop and adjoining yard area were created

Before considering the evidence submitted concerning the use of the site, it is worth firstly establishing when the workshop building and adjoining yard to the rear of 302 & 304 London Road were created and whether this supports the submitted evidence in respect of when the use applied for commenced and if it is continuous. There are slight discrepancies within the submitted evidence on when the use of the site commenced. The applicant's statement (Appendix 1) states that he has worked from the site for over 27 years, i.e. since at least 1998.

The aerial photographs in Table 1 below provide snapshots of the site dating back to 1999 and cover the relevant period (2015-2025). The earliest available aerial image dated 1999, taken from the Council's mapping system, demonstrates that only part of the yard area had been created at this time and this largely falls outside of the application site as defined by the submitted Location Plan. The land to the rear of No.302 appears to be in use as residential garden in connection with the use of No.302 (at that time comprising a single dwelling only).

There are no visible changes to the application site until the aerial image dated 29/09/2008 (Google Earth) where the site's current boundaries and the workshop building are visible. These images indicate that the workshop and adjoining yard area were created between 2006 and 2008, contradicting the applicant's version of events

in respect of when the use of the site for a car repair business commenced (over 27 years ago).

Nonetheless, for the purposes of this application, the relevant assessment period is 22 May 2015 to 22 May 2025. The aerial evidence clearly demonstrates that the workshop and adjoining yard were fully established before this period and remained physically consistent throughout it. The application site does not include the land to the rear of 206 London Road. **Table 1: Comparison of aerial images showing the application site taken from the Council's mapping system and Google Earth (site roughly outlined in red).**



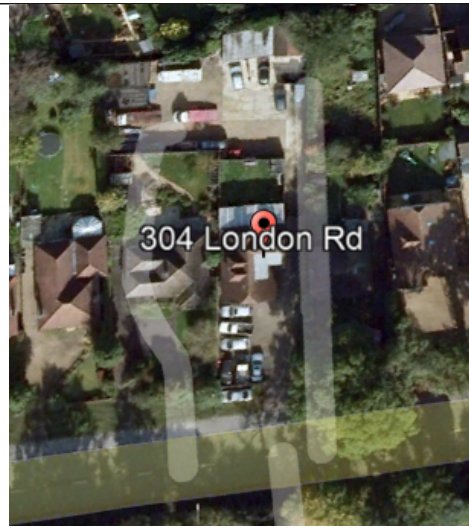
1999



2003



2006



28/09/2008



2010



2013



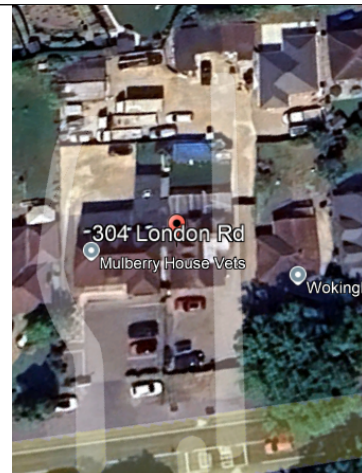
2015



15/04/2020



2022



09/05/2025

The nature of the use of the site

The Applicant's Evidence

The evidence submitted relies heavily on 10 no. written statements provided by the applicant, who owns the land and the business, customers, a familial relative and a former planning agent. These statements are supported by a copy of an Appeal Decision, ref APP/X0360/C/20/3262299 relating to an Enforcement Notice served on land to the rear of 306 London Road (adjacent to the site), a collection of photographs

showing the site and various documents, a series of aerial photographs dated 2017-2025 and a Site Location Plan.

Following discussions with the applicant, additional evidence was submitted in the form of an additional statement by the applicant, additional letters from customers and the adjoining Veterinary Practice and a series of photographs annotated 2020/2021 showing the area to the south of the workshop building. The photographs of the site included in appendix 12 were also resubmitted with annotated dates (years).

Written Statements (Appendices 1-10)

The first statement is produced by the applicant (P Stelling). He states that he has worked continuously from the site for over 27 years including during the covid period and refers to the photos in Appendix 12 stating that these verify welding and general mechanical repair activities. This is supported by nine other statements primarily produced by customers of the business operating from the site, these are summarised below:

- Appendix 2 – states that he has used the applicant's services for 20+ years for mechanical repairs and servicing to their vehicles, he visits the applicant at the address and swap vehicles with him at least 2-3 times a week on a regular basis.
- Appendix 3 – states that they have known the applicant for 20 odd years, they have taken numerous classic vehicles to him for welding repairs over the years at 304 London Road.
- Appendix 4 – states they have known the applicant in excess of 12 years, during this period the applicant has sold them and relatives and maintain and repair them when they drop them off at the workshop in 304 London Road, the applicant has also restored their late father's Defender over the last 11 years.
- Appendix 5 – states that they have been using the applicant's services since 2009, the workshop at the rear of 304 London Road has often provided repairs and welding services to their plant machinery, boat trailers and marine engines.
- Appendix 6 – states that they have known the applicant for about 40 years, work on their own and their daughter's cars have been carried out at the rear of 304 London Road for the last 25+ years, the applicant and his daughter have worked on the cars including recovery work.
- Appendix 7 – produced by the applicant's daughter, states that they have lived at 304 London Road for approximately 29 years, their father has worked on cars, carried out car and van repairs including recovery work, in the yard to the rear of 304 London Road for this entire period.
- Appendix 8 – states that they have known the applicant for over 20 years, during the last 12 years he has fixed their car on numerous occasions, they visit the applicant's house on a weekly basis to assist with housework and during this time they are working on vehicles in the workshop.
- Appendix 9 – states that they have used the applicant's services at 304 London Road in excess of 20 years for vehicle repairs and maintenance works, they visit on a weekly basis.

- Appendix 10 – Statutory Declaration of C Keen dates 21/05/2025 – state that they met the applicant in 2012 to advise on the commercial element to the rear of 304 London Road, since this date they have been involved with various planning applications and advice relating to the commercial use. They have used the sites services for car repairs and key services for his vehicles, they have visited the applicant on numerous occasions over the last 13 years and the rear yard has always been used for commercial purposes i.e. car repairs, servicing including bodywork and welding. They have met Council officials on-site on several occasions to discuss the commercial entity.

It is noted that these statements have been presented as Statutory Declarations within the submission. However, only Appendix 10 can be considered a true Statutory Declaration as the rest do not follow a prescribed format with reference to the Statutory Declarations Act 1835. Accordingly, less weight can be given to the statements made in Appendices 1-9 in the balance of probability.

Overall, the submitted statements are brief and in parts vague. There is very limited reference to the workshop and yard area, with most statements referring to the rear of 304 London Road. The plan attached to each statement also does not clearly identify each building/area and their use. Several statements refer to knowing the applicant and visiting the rear of 304 London Road for various services for over 20 years. However, the aerial images assessed above clearly contradict these accounts as most of the site was residential garden until at least 2006. This does not invalidate these claims, but it does reduce the weight that can be given to statements claiming very long-term use. Appendices 4, 5 & 10 provide slightly more contemporary accounts.

It is noted that the statement of K Thompson (Appendix 4) claims that the applicant has sold cars, although it does not explicitly state that the sale of cars has taken place within the application site. This use has not been applied for and is not referred to in any other submitted evidence but potentially indicates a mixed use of the site. This is explored later in the report.

Nonetheless, some of the accounts are produced by individuals who appear to attend the site on a regular basis for commercial purposes. The statement of C Palk (Appendix 2) states that he visits the applicant at least 2-3 times a week on a regular basis to drop vehicles off for repairs and 'swap' vehicles. The statement of D Bennett (Appendix 9) states that they visit on a weekly basis for vehicle repairs and maintenance works. The Statutory Declaration of C Keen (Appendix 10) also states that they have been involved with planning applicants and advice relating to the commercial use on the site over the last 13 years. These statements more clearly support the applicant's version of events and the continuous use of the land for car repairs applied for.

Copy of Appeal Decision ref APP/X0360/C/20/3262299 dated 01/06/2021 (Appendix 11)

This appeal decision relates to an Enforcement Notice served on land to the rear of 306 London Road (adjacent to the application site). However, the appeal documents discuss the uses of the wider T shaped parcel of land to the rear of 302-306 London Road, including the application site.

Within paragraph 4 of the decision the Inspector acknowledges the Council's position, at the time, of the wider site comprising four planning units, with one being the land behind 302 London Road with its workshop which the Council accepts has a lawful use

for vehicle repairs. The decision does not include any additional commentary on this matter except to say that the dwelling at 304 London Road, and likely the separate dwelling behind 304, are separate planning units.

Collection of photographs showing the site and various documents (Appendix 12)

The first page of this bundle comprises photos of a card issued by the Environment Agency dated 04/08/2022 relating to Regulation 28 of the Waste (England and Wales) Regulations 2011, 2no. trade plates and a Goods Vehicle Identity Disc which states the applicant's name, 'KP Motors' and an expiry date (30-11-2026). The page is annotated with more detail on the documents.

While these documents could relate to a car repairs business and appear to be registered to the applicant, none explicitly support the claimed use of the site, e.g., they do not state the address they relate to. It is also not explicitly clear how the EA Licence, which relates to waste transfer, relates to car repairs and maintenance or the applicant's business. No record for KP Motors at the site address could be found on Companies House.

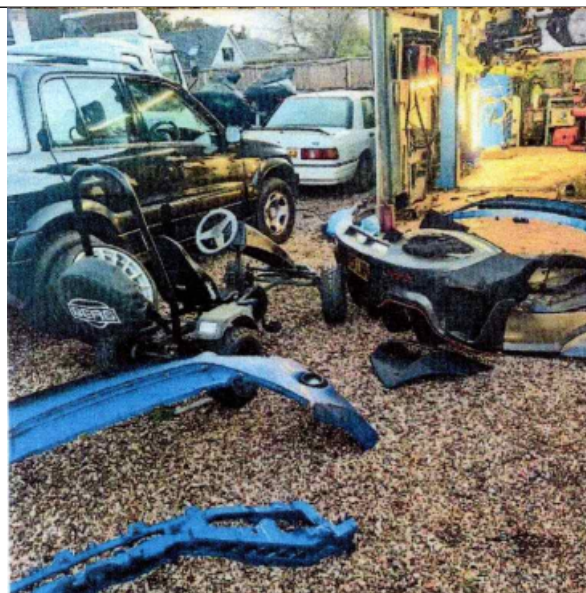
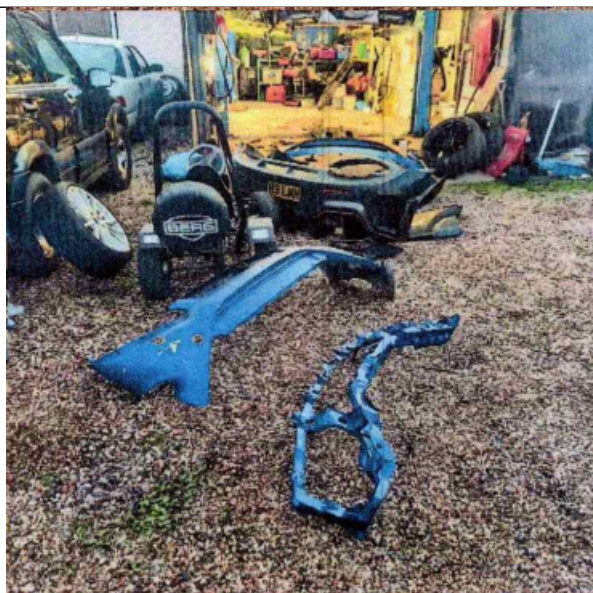
The second page comprises part of a copy of a Motor Insurance Certificate dated 03/08/2024-02/08/2025 in two individual's names (including the applicant). The Certificate includes cover for "Use in connection with the Policyholder's business as a motor trader". Again, this does not explicitly support the claimed use of the site, e.g., no address is stated within the excerpt. Nonetheless, it does indicate the applicant's connection to a form of motor trader business. Motor trader insurance includes the buying, selling, servicing or repairing of vehicles including breakdown recovery and vehicle transportation.

The remaining pages in the bundle include various site photographs. Following discussions with the applicant, an amended copy of these photographs was submitted with dates (years) annotated on each page. This was submitted following a request for dated photographs. Table 2 below provides commentary on some of the submitted photos.

Table 2: Extracts of Appendix 12 with Officer commentary.



Submitted photos which support the claimed use of the workshop – annotated 2017.



Submitted photos which support the use of the immediate adjoining yard area for activities relating to the claimed car repair business use of the site – annotated 2019/2020.



Submitted photo which shows vehicles parked outside of the application site boundaries, it is unclear whether all vehicles are associated with the claimed car repair business use – annotated 2021/2022.

Submitted photo which shows building works, unconnected to the claimed use of the land and seemingly outside of the application site – annotated 2021/2022.

The submitted photos show cars and other motor vehicles stored/parked within the workshop and the adjoining yard area, trailers parked on the yard area, works being carried out on motor vehicles and various dismantled cars and car parts within the workshop and the adjoining yard area. Some of the submitted photos clearly show the use of the workshop in connection with the claimed car repair business use of the site and indicate that these activities 'spill over' onto the adjoining yard area. Some of the

photos also indicate that the area to the south of the workshop building has been used for vehicle parking.

However, other submitted photos provide less clear evidence in supporting the claimed use of the application site. The yard area expands to the east of the application site, it appears from some of the photos that parked and/or stored vehicles are positioned within the wider site, outside of the boundaries of the application site marked on the submitted Location Plan. It is also not clear when reviewing some of the submitted photos where within (or outside) the application site they have been taken from or if all vehicles shown are associated with the car repairs use.

Additionally, although the year(s) that the photos were taken have been added to the document this does not explicitly verify when they were taken or support that the use applied for is continuous. As a whole, Appendix 12 provides support to the claimed use of the land for a car repair business to a degree, but the submitted photos are not wholly consistent or clear and therefore the weight which can be given in the balance of probability is reduced.

Additional Evidence

Following discussions with the applicant, additional evidence was submitted for consideration. The submitted letters and photographs largely respond to queries raised by Officers regarding the use of part of the area of the site to the south of the workshop building and to the rear of 302 London Road. These are summarised below:

- Signed Letter from S Tongue (Mulberry House Vets) dated 20/02/2023 – states that during the covid period the practice used a piece of land belonging to 304 London Road to extend their car park area during their business hours of 8am-7pm. Outside of these hours the applicant used this land for their personal and business use.
- Updated Signed Letter from S Tongue (Mulberry House Vets) dated 21/10/2025 – states that the applicant had access at all times, continued to park cars from his business in the area and used it on evenings and weekends for his personal and business use.
- Additional Letter from the applicant dated 21/10/2025 – states that a small area to the south of the workshop was used by Mulberry House Vets and himself for vehicle repairs and parking from late December 2020/early January 2021 to end of Dec 2021/Beginning of Jan 2022. He continued to use the land for parking vehicles in association with his business and retained a double gate for access. States that the land usage hadn't changed as it was used for parking vehicles, collection and drops off, the Vet's used it for temporary parking during COVID, this was short lived and returned to normal.
- Annotated photographs taken in 2020/21 (exact date unknown) showing the area to the south of the workshop building and the access.

These letters describe the nature of a temporary arrangement between the applicant and the adjoining occupier (the Veterinary Practice) which was facilitated by a temporary change to the site's boundaries. The applicant states that this occurred from late December 2020 at the earliest to the beginning of January 2022 at the latest. Both parties state that they jointly used this area of the site throughout the temporary period for parking for their respective businesses but are not consistent on how the applicant

used the area. The updated letter from S Tongue states that the applicant used the area on evening and weekends for his personal and business use.

The submitted photographs show the double gate the applicant refers to in his letter which supports the statements claiming he retained access during this period. However, the photos do not clearly support the claimed shared use of the land during this period. There is a single photo of a parked car, and it is not clear how the photos of the parcel and a portable toilet on the land support the claimed use. Additionally, the annotations do not precisely verify when the photos were taken.

The temporary arrangement between these parties raises questions on whether the use of the land was disrupted, and a material change of use of this part of the site occurred within the relevant 10-year period. Evidence shows that the temporary boundary change and shared occupation of the southern yard with the adjacent veterinary practice introduced a separate, unrelated use for a sustained period. This represents a material interruption to the continuity of the repair use within that part of the site during the 10-year period. This is discussed in further detail later in the report.

The additional letters by M&J Autos and L Brown (Forest MOT & Service Centre Ltd) state support the claim that the business was operating from the site during 2021 and 2022, with both stating that they delivered and collected vehicles from the rear yards of 302 and 204 London Road. A letter by PCS Logistics Limited dated 24/10/2025 is unclear, stating that the applicant stored a damaged vehicle from “March 2021 to June 21st”.

Site Location Plan

The submitted plan shows the site's location and the extent of the yard area to the rear of 302 & 304 London Road (marked by the red line boundary). It does not provide any further detail.

The Council's Evidence

Planning History (see summary above)

Two Existing Lawful Development Certificate applications relating to the application site have previously been refused: 171226 dated 20/07/2017 and 182277 dated 08/02/2019. Of significance is that the land applied for under this application is smaller than both previous applications, which included a larger area to the rear of 304 London Road, the side access and the frontage of the property. Both previous applications also claimed that the site had been used for car repairs and sales.

The plans submitted as evidence in support of both applications state that the yard area adjacent to the workshop was used for car sales, see **Figures 3 & 4** below. Both plans clearly identify the workshop building but also state that the building was used for car sales. This constitutes a separate use and contradicts the applicant's claim that the area has been consistently used in connection with the car repair business operating from the site over the 10 year period.

Application ref 200013, refused on 03/03/2020, proposed the re-development of the wider site including the workshop and adjoining yard area being considered under this application. The Location Plan (no. PL-10) also identifies the workshop building and states “The Workshop & Car Sales”. The Officer's Report describes the site and refers to 2no. small buildings located to the rear, stating that one is “...occupied unlawfully as

a car sales and repairs workshop and the other lawfully as a dwelling.” The report also states that in relation to the workshop building that there would be no dispute that the building itself has existed for more than four years (notwithstanding the refused certificate application relating to its use). This indicates the Council’s position at the time of the decision.



Figure 3: Extract of Location Plan (no. PL-01) submitted in support of application ref 171226.

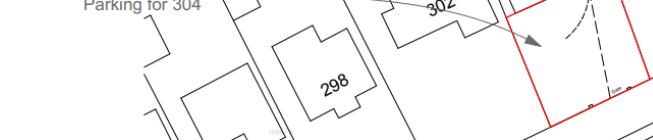


Figure 4: Extract of Parking Provisions Plan (no. PL-03 Rev. B) submitted in support of application ref 182277.

Application ref 220367, withdrawn on 25/02/2022, related to proposed works at No.302 London Road (Mulberry House Vets) adjacent. Nonetheless, the submitted site location plan includes the area to the south of the workshop building within the application site’s boundaries, and the submitted Site Plan shows this area as part of an ‘Existing Car Park’, see **Figures 5 & 6 below**. These plans were submitted to the Council on 08/02/2022, contradicting the applicant’s evidence which states that the temporary arrangement involving the shared use of this area with the adjacent premises ceased by the beginning of January 2022 at the latest.



Figure 5: Extract of Site Location Plan (no. 21.33-100 Rev B) submitted in support of application ref 220367.

Figure 6: Extract of Existing Site Plan (no. 21.33-101 Rev C) submitted in support of application ref 220367.

In email correspondence between the Case Officer and Planning Agent saved on the application file dated 24/02/2022, the agent advises that the intention is to remove the retrospective works to the rear (referring to the extended car park area) and to re-instate the former boundary closure. This places further doubt on the applicant's version of events in respect of this matter.

Application ref 222556, conditionally approved on 11/05/2023, relates to the erection of a dwellinghouse to the rear of No.306 London Road to the east of the application site. This development was recently constructed. The approval was subject to pre-commencement conditions including condition 6 which required the submission of a Construction Method Statement (CMS) for the Council's approval prior to the commencement of development. This condition was discharged under application ref 240706 dated 30/05/2024. The approved CMS shows site parking for the construction works to the rear of No.302 London Road and within the application site, see **Figure 7** below. This further undermines the applicant's claim that the whole of the application site has been used continuously in association with a car repair business for over 10 years.

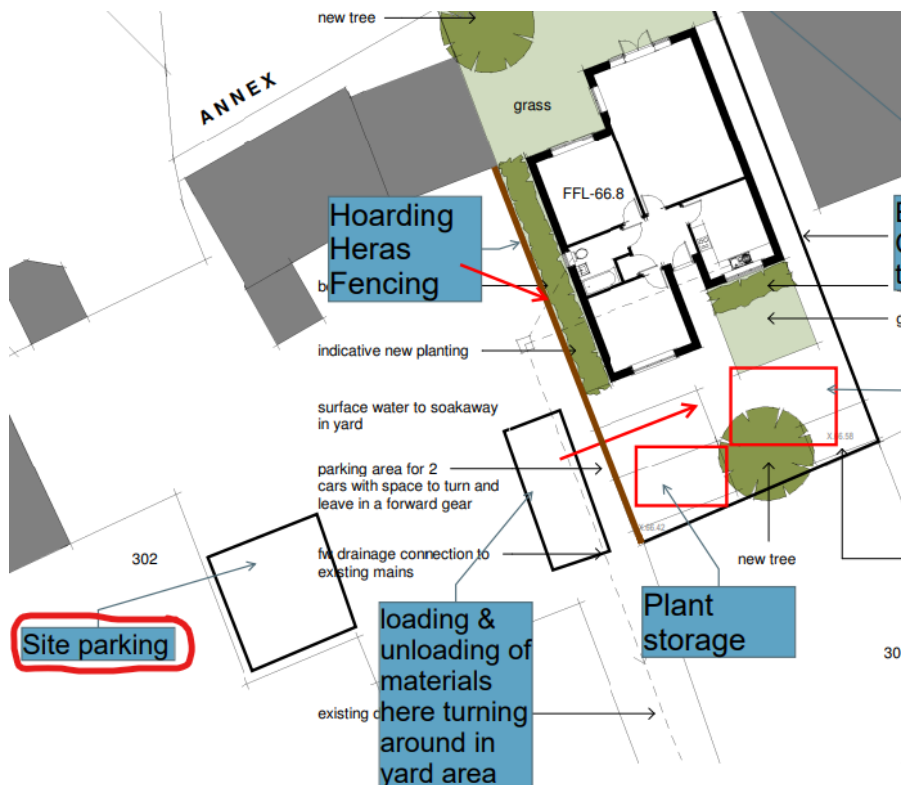


Figure 7: Extract of CMS Plan approved under application ref 240706 with the site parking area highlighted – N.B. this approved plan also shows the extended car park area to the south of the workshop building.

Enforcement History

The site has a complex recent history of planning enforcement. Multiple investigations have been undertaken into activities on the application site, alongside further investigations on neighbouring land that contain relevant information. As a result, the

Council holds an extensive body of evidence relating to this application. To support the assessment, **Table 3** below presents the key records in chronological order.

Table 3: A summary of relevant enforcement records relating to the application site.

Case Reference	Date	Evidence (<i>Officer commentary in italics</i>)
RFS/2012/00491	Unknown (2012)	File Note with 3no. aerial images dated 1996, 1999 & 2003 – <i>shows the yard area to the rear of 304 London Road, yard area to the rear of No.302 not in existence (residential garden).</i>
RFS/2016/083158	02/11/2016	Site visit photos – <i>show the workshop building in situ and vehicles parked along the site's western boundary. The rest of the site is relatively clear.</i>
RFS/2017/083770	18/08/2017	Letter to applicant from the Enforcement Officer following refusal of application ref 171226 requesting they contact the Council in regard to remedying the breach of planning control.
	17/07/2018	Letter to applicant from the Enforcement Officer advising that the Council was now looking to begin formal enforcement action.
	July 2018 – December 2018	Various email correspondence between the Enforcement Officer and the applicant's representatives prior to the submission of application ref 182277. – <i>The application was invited on the basis of claim that 10 years could be demonstrated with stronger evidence.</i>
RFS/2020/085516	24/03/2020	Emails from Enforcement Operational Manager to a Ward Member – advises that it is clear that the rear areas of the site have been used for some form of business purpose for more than 10 years and may have acquired lawfulness, 182277 was refused mainly because of ambiguity and inclusion of areas of the site that could not be proven to be used for business purposes, the Council would likely have to grant a decent further application. Later clarifies that a car related activity had been occurring at the rear but not down the side or the front of the property <i>[304 London Road]</i> .
	15/04/2020	Email from Enforcement Operational Manager to a local resident – provides the same advice as both and adds, in response to a claim that the use may not have been continuous, that it appears that the use has not been abandoned as it has restarted and/or intensified.
RFS/2020/085605	25/06/2020	File note containing a collection of site visit photographs dated 2017, 2018, 2020 (January) & 2020 (May) – <i>exact dates are not given; however, they show that the</i>

		<i>general arrangement of the site does not change between these dates, show the workshop building in situ and various vehicles parked to the front and side of the building.</i>
	26/06/2020	Letter from Enforcement Officer to the applicant - discusses several enforcement issues across the wider site including the use for car repairs. States that the activities occurring within the workshop represent a material change of use requiring planning permission and are therefore unlawful. Also states that vehicles associated with the unlawful workshop activities must be removed, and that there is clear evidence that vehicles are being stored long term rather than parked. States that if it is the applicant's view that the existing use is lawful, a certificate of lawful existing use would need to be submitted.
	02/10/2020	Three Enforcement Notices were served on the wider site on 02/10/2020. Notice A related to unauthorised storage of vehicles and other equipment on land to the rear of 306 London Road (adjacent to the application site); Notice B related to unauthorised CCTV cameras on land including the application site; Notice C related to unauthorised pole mounted floodlights on land at 302 London Road (adjacent to the application site). Related Expediency Report: states that the land to the rear of 302-306 London Road has been accumulated into the ownership of 304 London Road in recent years; describes the building to the rear of 302 London Road as a workshop; states that across the wider site, there are four distinct planning units broadly defined by the original boundaries of each of the gardens but reinforced in the four distinct or defined uses. Planning unit 1 is defined as "The workshop building and associated curtilage (parking and other storage) to the rear of 302 London Road" – <i>extract of Figure 1 below:</i> 

		One of four alleged breaches of planning control assessed was <i>“The unauthorised use of the buildings behind 302 London [Road] and the land behind 302 and 304 London Road for the repair of vehicles”</i>. States the site’s history and aerial images give credence to some sort of workshop use. Then concludes, on the balance of probability, a Class B use of some sort has existed continuously for more than 10 years and would therefore be considered lawful. States that the Council would pursue further action in relation to any car sales use if this re-commenced. States that several vehicles, including a flatbed truck, and equipment surround the workshop, but these have a clear connection to the car repairs within the workshop. As aerial images extending back more than 10 years showed the same (or similar) vehicles parked in broadly similar positions adjacent or near to the workshop buildings, it was considered that these items are also lawful on the balance of probability. Figure 4 comprises a photograph taken 01/09/2020 showing paving and fencing around the residential dwelling at the rear of 304 London Road <i>[known as the annexe]</i>. – <i>This fenced off area is located within the north-eastern corner of the application site and is visible on the 2022 and 2025 aerial images (see Table 1)</i>.
	29/11/2020	Email correspondence between Development Management Service Manager and Councillors – states that the sale of Christmas trees on a recurrent basis for approx. 6 weeks every year before Christmas has been occurring in excess of 10 years and is lawful.
RFS/2022/087097	10/03/2022	Site visit photos – <i>show extended car park area to the south of the workshop building and vehicles parked across the wider yard area.</i>
RFS/2022/087062	31/03/2022	Email from Enforcement Officer to a Cllr – advises that they do not believe that there has been any breach in relation to commercial use of the land beyond what has already been considered as not expedient to pursue. Refers to 2020 Expediency Report.
RFS/2022/087613	18/11/2022	Email correspondence between Enforcement Officer and Enforcement Operational Manager discussing the case, agreed that a CLU application should be invited to regularise the area to the south of the workshop and one car length to the east, agreed that vehicles outside of this area should be removed.
	23/11/2022	Letter from Enforcement Officer to the applicant advising on various matters, includes:

		No further enforcement action had been taken in relation to the workshop use, including the land in its immediate surrounds, because the use and vehicle storage within a well contained area to the immediate east and south of the workshop building would have likely occurred for more than ten years <i>[and subsequently lawful]</i>. It had been observed that land to the south of the workshop building had been annexed by the veterinary practice (No.302 London Road) for use as a car park before reverting back to its previous use several months later, viewed as an interruption to the workshop use that the Council had previously accepted as being immune from enforcement action. Therefore, the Council's view that the use of the workshop (including associated vehicle storage) was only immune from action on the land within the workshop and immediately to the east <i>[see area shaded in red below]</i>. 1. Remove all vehicles and cease storage in the area shaded blue on the image below. 2. Submit a Certificate of Existing Lawful Development to regularise the workshop use within and immediately to the east of the workshop building behind 302 London Road (shaded in red on the image below). 3. Remove all other vehicles not associated with the existing residential use and that are stored in the area shaded in yellow on the image below. 
	16/12/2022	Site visit photos and notes – <i>refers to on-site discussion between the Enforcement Officer and the applicant regarding the letter dated 23/11/2022, the requirement to remove non-residential vehicles from the site and Christmas trees sales taking place at the front of the site. [The previous boundary to the south of the workshop building had been reinstated by this date – first photographic evidence showing this.]</i>
	20/02/2023	Site visit photos and notes – <i>show parked vehicles and a car jacked up on a lift within the workshop.</i>
	21/03/2023	Site visit photos and notes – <i>show parked vehicles within the site.</i>
	14/04/2023	First Planning Contravention Notice returned by the applicant (served on 07/03/2023). – <i>States that the use</i>

		<i>of the yellow and blue areas [see above] is for storage of vehicles & commercial/residential parking, vehicles within the yellow area are stored and parked short term for repairs, maintenance or sale, vehicles within the blue area are 'own' parking, customer parking and some short time storage waiting for parts. States that these uses have been ongoing for 16 years. States that the workshop is for commercial and personal use.</i>
	21/04/2023	Email to Enforcement Officer from the Council's Business Rates team advising that there is 1 Business Rated entry for P Stelling T/A K&P Motors at Workshop R/O 304 London Road, started on 01/04/2015. – <i>Supports the applicant's evidence.</i>
	29/06/2023	Second Planning Contravention Notice served on the applicant. – <i>States that vehicles in the blue and yellow areas [see above] are parked/stored (short term) awaiting parts, sales, repair or parts; states that the maximum number of vehicles parked/stored at any time is 8.</i>
	10/10/2023	Site visit photos and notes – <i>photos show a car jacked up on a car lift within the workshop & parked vehicles to the south and east of the workshop and within the wider site.</i> Extracts from Case Officer notes: "Relation of P Stelling [the applicant] (by association with daughter) was present and explained: The workshop was for Paul Stelling's personal use only; The pickup truck and digger are in relation to the house build; The caravan was Paul Stelling's storage"; "No evidence of car repairs on site".
	17/10/2023	Email from Enforcement Officer to applicant's representative following a site visit advising (without prejudice) that Officers were satisfied with what they saw on site with regards to car repairs, recommends that an application for a Certificate of Lawful Existing Use is submitted " <i>because it has not yet been established that the car repairs are lawful</i> ". Also advises that all car sales cease with immediate effect as this constituted a breach of planning control.
	23/10/2024	Site visit photos – <i>show a car jacked up within the workshop and vehicles parked to the south of the building and within the wider site.</i>
RFS/2023/089004	18/06/2024	Site visit photos and note – <i>show vehicles parked within the wider yard area including camper vans.</i>
	25/06/2024	Site visit photos – <i>show vehicles within the wider yard area.</i>

It is clear when reviewing the Council's Enforcement records that the use of at least part of the application site for car repairs has been considered to be immune from enforcement action over the requisite ten year period. Emails from Officers to various interested parties dated 24/03/2020 and 15/04/2020 explain the Council's position at that time and why no enforcement action had taken place in relation to the car repairs business. The Council's position at that time is clearly outlined in the Expediency Report dated 02/10/2020, with the area deemed to immune from action defined as a separate planning unit.

The 2020 position was superseded by new information and physical changes to site layout from 2020–2022 which demonstrated interruption of use. The Council's position had changed by 23/11/2022 as evident within the letter from the Enforcement Officer to the applicant. This letter advised that the temporary shared use of the area to the south of the workshop building with the adjoining Veterinary Practice was deemed to represent an interruption to the use the Council had previously accepted as being immune from enforcement action. The letter clearly demonstrates that the size of the area of the site that Officers considered likely to be immune from enforcement action had reduced.

The use of the site was investigated further by Officers throughout 2023 with Planning Contravention Notices served on the applicant in April and June. A Planning Contravention Notice (PCN) is a formal request for information issued by a Council when it suspects a possible breach of planning control. It is a useful investigative tool to gather facts before deciding what action to take. It is a criminal offence to knowingly provide false or misleading information in response to a PCN. Therefore, the information given by the applicant in response should hold significant weight when assessing the balance of probability.

The answers provided by the applicant in the PCNs contradict the applicant's evidence for this application. The applicant states that the yard area (except for the immediate area to the east of the workshop building) is used for residential parking and parking for vehicle sales in addition to activities associated with car repairs/maintenance. These are distinct uses from what has been applied for under this application and indicates a mixed use of the application site, and it is noted that the Council has concluded on several occasions that the use of the land for vehicle sales was unlawful and requested this use ceases. Given the legal weight of information supplied on a PCN, these contradictions significantly weaken the credibility of the applicant's claim.

The Council's evidence also contradicts the submitted location plan in respect of the use of the north-eastern corner of the application site. The erection of fencing to the west of the separate dwelling to the rear of No.304 London Road has effectively enclosed part of the site into the use of the dwelling. This fencing is also visible on the 2020 & 2025 aerial images (see **Table 1** above). It can therefore not be demonstrated that this part of the site has been continuously used for car repairs throughout the requisite ten year period.

Nonetheless, the Council's evidence clearly supports the claimed use of the workshop building and the immediate yard area to the east. While the Council's position on the use of the wider yard area has changed over time, various correspondence indicates that the use of the workshop and the yard area immediately fronting it had been accepted as likely to be lawful. Moreover, numerous photographs from Officer's site visits show general activity within the workshop building, such as a vehicle lifted up on

the car lift, and vehicles parked in front of the building is a common observation when reviewing these photos.

Third Party Evidence

Representations have been received from neighbours, Wokingham Town Council and Cllr Chris Cooke. Several raise concerns relating to environmental and safety concerns, highway safety concerns and contravention of local planning policy. This application requires an assessment of lawfulness of the matter applied for only, meaning material planning considerations cannot be taken into account.

Comments received regarding inaccurate or misleading application details have been incorporated into the discussion of the applicant's evidence above. Several representations refer to the site having a mixed use and the use of the site for car repairs being disrupted. While this evidence is largely observational, it broadly supports the Council's evidence discussed above.

It is noted that representations refer to the use of the site for Christmas trees sales. The Council's evidence demonstrate that this activity is temporary and takes place at the front of No.304 London Road (outside of the application site). The Council has previously concluded that this temporary use is lawful.

Representations received following the submission of additional evidence on 22/07/2025 state that the veterinary practice had sole use of part of the site when the area to the south of the workshop building. This statement is undermined by the applicant's evidence which suggests that a double gate was in situ throughout this period which provided access for the applicant during this period.

Whether the use of the whole site for car repairs has been disrupted:

The mixed use of the yard area

The Council's evidence strongly supports the claimed use of the workshop building and part of the yard area to its immediate east for vehicle repairs. However, there is clear evidence which contradicts the applicant's version of events in respect of the remaining yard area. The area to the south of the workshop building is discussed separately below.

The applicant's own responses to Planning Contravention Notices (PCNs) state that parts of the yard were also used for residential parking and for the storage of vehicles intended for sale. Car sales constitute a separate planning use that cannot be treated as incidental to car repairs.

The presence of residential parking and vehicle-sales activity within parts of the yard represents distinct planning uses that break the continuity of the claimed repair use, and therefore these areas cannot be treated as having accrued lawfulness.

In addition, aerial photographs and enforcement records show that the north-eastern section of the yard became enclosed and incorporated into the residential curtilage of the dwelling at the rear of No.304. This further prevents the applicant from demonstrating continuous use of that part of the site for vehicle repairs. Officer's site visit photographs show vehicles parked within the site but these do not explicitly demonstrate that all vehicles are associated with the car repair business.

Given the legal weight attached to PCN responses, and the great reliability of Council enforcement records, these inconsistencies significantly undermine the claim that the entire red-line area has been used solely for car repairs for 10 continuous years.

Temporary shared use with the adjacent veterinary practice

The temporary shared use of the area to the south of the workshop building, facilitated by the boundary change, introduced the part use of the land for incidental parking to the use of the veterinary practice (302 London Road). The Council's site visit photographs and additional photographs submitted by the applicant confirm that the application site was subdivided during this period. This is not disputed. However, further clarity was sought from the applicant to demonstrate whether this disrupted the use of this area in connection with the car repair business.

As discussed, there are discrepancies within the applicant's evidence in respect of how long the area was enclosed to facilitate additional parking for the adjacent veterinary practice. The exact start and end dates are unclear, but Council site visits confirm that the boundary was reinstated at some point between March and December 2022.

The letters produced by the applicant and the veterinary practice state that this was a temporary arrangement during the Covid-19 pandemic. However, the final Government restrictions were lifted in March 2021 and the shared use of the land continued for at least 1 year afterwards.

The applicant's photographs showing a double gate attached to the workshop building and temporary fence support the claim that he retained access during this period. However, the accounts of the applicant using the land only during evenings and weekends is not supported by clear evidence. The second letter produced by the practice also states that the area was used for the applicant's commercial and personal use.

When weighing up all relevant evidence, it is considered on balance that this temporary shared arrangement represents a material interruption to the continuous use of this part of the site for a car repair business within the relevant 10-year period.

Conclusion

The burden of proof is on the applicant to demonstrate, on the balance of probability, that the use applied for is lawful. Overall, several elements of the applicant's evidence are vague and imprecise, and discrepancies have been identified that undermine parts of the applicant's account. The Council's planning and enforcement records support the claimed use of the workshop building and part of the adjoining yard area; however, evidence indicating mixed uses within the remainder of the yard area contradicts the applicant's submission.

Limited weight can be afforded to the applicant's written statements (Appendices 1–9) as they are not statutory declarations and several contain imprecise or inconsistent accounts of the site's use. Elements of these submissions are contradicted by aerial imagery and the Council's enforcement records, including evidence of mixed and residential uses during the relevant period. The applicant's own PCN responses also confirm activities beyond car repairs, further reducing the reliability of parts of the account. Accordingly, this material is only given weight where corroborated by independent Council evidence.

Based on the evidence above, it can be said on the balance of probability that the use of the workshop building and the eastern portion of the adjoining yard area for a vehicle

repair business has occurred continuously for a consecutive period of over ten years. Subsequently the time limit for taking enforcement action had expired under s171B of the TCPA by the date of the application and the use of the land is lawful.

However, the evidence does not demonstrate that the remaining yard area has been used continuously for a vehicle repairs business for over ten years. Instead, it appears that this part of the application site has been used for a mix of activities, including car sales and residential use, which have interrupted the continuity of the use applied for. Subsequently, the Council would have been in a position to take enforcement action on the date of the application, and the use of this area of land cannot be considered lawful.

On balance, given the strength of evidence supporting the long-established use of the workshop and part of the yard area, it is considered appropriate to issue a certificate of lawfulness that applies only to this part of the application site. A reduced red line boundary is therefore recommended to reflect the area the Council is satisfied has become lawful through the passage of time.

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 use of the workshop building (in the approximate location shaded in blue on the attached plan) and part of the adjoining yard area (outlined in red on the attached plan) for a vehicle repair business has been occurring for a consecutive period of over ten years. It is therefore considered that this application for a certificate of existing lawful development be approved.

Date:	4 March 2026
Earliest date for decision:	25 June 2025
Recommendation agreed by: (Authorised Officer)	
Date:	06/03/26