



PLANNING OFFICER DELEGATED REPORT

APPLICATION NUMBER	CB/25/03217/LDCE
LOCATION	Land to the West of Barton Road, Barton Road, Gravenhurst
PROPOSAL	Lawful development certificate existing: use of buildings for in excess of 10 years, shown on plan PL-12, outlined in green, blue and pink for storage; building outlined in red as stables and building outlined in orange as dog kennels.
PARISH	Gravenhurst
WARD	Meppershall & Shillington
WARD COUNCILLORS	Cllr Stephenson
CASE OFFICER	Fenella Hackney
DATE REGISTERED	11 November 2025
EXPIRY DATE	06 January 2026
APPLICANT	Mr Sheridan
AGENT	DLA Town Planning Ltd
SUBMITTED PLAN NUMBERS	PL-109 - Location Plan, PL-108 - Existing Site Plan, SU-01- Existing Floor Plans and Elevations, PL-12 Existing Site Plan
RECOMMENDED DECISION	Lawful Dev - Existing - Refused

Site Location and History:

The site is located to the west of Barton Road, Upper Gravenhurst, and to the south of No.6 Barton Road. The site consists of a number of single-storey barn buildings clustered towards the south of the site which are in a poor state of repair, as well as a vacant field towards the north. Access into the site is taken from Barton Road to the southeast corner of the site.

Outline planning permission (reference CB/23/00941/OUT) was previously refused upon the site for the 'Demolition of collapsed buildings and erection of up to 9 dwellings with all matters reserved except access' and was dismissed at appeal (APP/P0240/W/23/3332586).

The Application:

The application has been made under Section 191 of the Town and Country Planning Act 1990 (as amended) and seeks a Certificate of Lawfulness in respect of the use the buildings on site for storage, stables and dog kennels which the application form states

began more than 10 years before the date of the application.

The description of development was amended with agreement from the Agent for clarity:

'Lawful development certificate existing: use of buildings for in excess of 10 years, shown on plan PL-12, outlined in green, blue and pink for storage; building outlined in red as stables and building outlined in orange as dog kennels.'

The following information has been submitted to Central Bedfordshire Council (CBC) in support of the Lawful Development Certificate:

-Ref: 2025/504 which details the buildings, the uses for which the LDC is sought, and the date the use commenced.

-Existing site plans, location plan, and elevation/floor plans, including drawing no. PL-12 which colour codes each building to be read alongside document 2025/504.

-Planning Statement and supporting appendices comprising of photographs of the buildings outlined in green, red and blue, photographs of the building outlined in orange from the 1970s, Google earth images, a statutory declaration from a son of the late landowner who recently inherited the property, and miscellaneous photos which are undated.

The building outlined in green is stated to be in storage use with that use having commenced in 1970. The building outlined in red is stated to have been in stable use since 2013. The building outlined in blue is stated to be used for storage, with this use having commenced in 1980. The building outlined in pink is listed as agricultural storage, with this use having commenced in 1980. The orange building is listed as dog kennels, with this use having commenced prior to 1970.

Relevant Planning History:

Case Reference	CB/25/01567/FULL
Location	Land to the West of Barton Road, Barton Road, Gravenhurst
Proposal	Demolition of existing structures and construction of six dwellings for the over 55's (Use Class C3) and new access
Decision	Application Withdrawn
Decision Date	14/07/2025

Case Reference	CB/23/00941/OUT
Location	Land to the West of Barton Road, Upper Gravenhurst. MK45 4JP
Proposal	Outline Application: Demolition of collapsed buildings and erection of up to 9 dwellings with all matters reserved except access.
Decision	Outline Application - Refused
Decision Date	11/05/2023 17:46:32
Appeal Decision Date	22/08/2024
Appeal Decision	Planning Appeal Dismissed

Case Reference	CB/22/03378/OUT
Location	Land to the West of Barton Road, Upper Gravenhurst. MK45 4JP
Proposal	Outline Application: Demolition of collapsed buildings and erection of up to 9 dwellings with matters reserved for appearance, layout and scale
Decision	Application Withdrawn
Decision Date	18/10/2022

Case Reference	CB/22/01297/FULL
Location	Fairbourne, Barton Road, Gravenhurst, Bedford, MK45 4JP
Proposal	Change of use of part of paddock land to residential garden and to provide a small maintenance storage barn.
Decision	Full Application - Granted
Decision Date	01/07/2022 12:28:03

Case Reference	MB/99/00804/FULL
Location	Land Opposite 25 To 41, Barton Road, Gravenhurst
Proposal	FULL: ERECTION OF 4 BED DETACHED DWELLING AND DOUBLE GARAGE AND CREATION OF ACCESS.
Decision	Full Application - Refused
Decision Date	28/07/1999

Case Reference	MB/85/00487/OA
Location	Land Adjacent To Fairbourne, Barton Road, Gravenhurst
Proposal	OUTLINE: FOR ERECTION OF TWO HOUSES AND GARAGES
Decision	Outline Application - Refused
Decision Date	13/08/1985

Consultees:

There is no statutory requirement to consult third parties. Nonetheless consultation responses have been received from the Parish Council and local residents.

Gravenhurst
Council

Parish Objection (verbatim):

'Our objections are as follows:

1. Existing use of all buildings has not been continuous over a period of the last 10 years or more.

The applicant states that all 5 buildings except an old chicken shed have been used continuously for a period of 10 years or more. GPC and many residents who have contacted the Council do not agree with this statement of continued use and our assessment below is corroborated by the Planning Inspector's Appeal Decision APP/P0240/W/23/3332586 (CBX ref: CB/23/00941/OUT) dated 22 August 2024 for the same site – see paragraph 10 “Most structures appeared in a dilapidated state, with some in a state of collapse and merging into the undergrowth. Only a couple of buildings nearest to the site access appeared to be in use, with one building being used as a stable and others appeared to be in use for storage. However, the overall extent of the buildings and associated immediate enclosures and surfacing appeared relatively limited, given the size of the site, and very haphazard in nature, and large parts of the site were open grassland.”

Only three of the five buildings referred to in this application have possibly been used for non-agricultural purposes at some point over the last 10 years:

i. Building outlined in Red on applicant plans – GPC acknowledges that this is currently used as a stable.

ii. Building outlined in Blue on applicant plans – GPC acknowledges that this is currently used as a storage for the stable user.

iii. Building outlined in Green on applicant plans – GPC understands that part of this building may have a vintage car not belonging to the applicant in it with the greater part of the building dilapidated (roof falling in) and a tree growing through it until recently. The applicant has not given pictorial evidence of the car in the building nor details for how long rental of the building has been ongoing for therefore we find that use of this building for the last 10 years has not be proven. More evidence is required from the applicant to prove use of this building.

iv. Buildings in Pink and Orange on applicant plans – GPC can confirm that these buildings have not been used at all for at least 17-20 years.

2. Abandoned buildings

i. As stated in 1.iv above, buildings in Pink and Orange on the applicants' plans have not been used at all for at least 17-20 years. The buildings are considerably dilapidated and have fallen into severe disrepair over many years without any attempt to maintain. Use of the buildings has clearly ceased for many years. GPC therefore consider these buildings to be abandoned and as such they should not be given a Lawful Development Certificate.

If CBC is minded to issue a Lawful Development Certificate Existing, GPC believe that:

1. A Certificate should only be for the buildings outlined in Red, Blue and possibly Green on the applicants plans. The buildings outlined in Orange and Red should be excluded as they are abandoned.

2. The Certificate must include a description of the non-agricultural use, operations or other matter for which it is granted regardless of whether the matters fall within a "use class" of the Use Classes Order e.g.: Buildings Red and Blue are to be used as stable buildings only. Green building for car storage.

3. The Certificate or associated order should specifically remove future Permitted Development Rights (PDRs) from the site, so that a formal application is required for any further development of the site.

Gravenhurst Parish Council therefore requests that Central Bedfordshire Council refuse this application in its current format.'

Other Representations:

Neighbours

5 objections received raising the following concerns:

- Poor condition of the buildings.
- Buildings have been described by the applicant as 'collapsed' or 'dilapidated' and 'not in use' in previous planning submissions.
- Absence of evidence confirming continuous use.
- The structures have been overgrown by vegetation which was recently cleared.
- Abandonment of buildings.
- Public opposition to previous proposals for development.
- The buildings have never been used as dwellinghouses.
- New residential development will put a strain on local services.

CPRE

Objection (summary):

The statements made within the submission regarding continuous use of the buildings contradict observations made by the Inspector as part of the previous appeal.

Considerations

1. Legislation

The application is made under Section 191 of the Town and Country Planning Act 1990 (as amended) ('the Act') to confirm that the use of land indicated in the application description is lawful.

Section 57 of the Act stipulates that planning permission is required for the carrying out of any development of land. The meaning of 'development' is set out in section 55(1) of the Act and states that the making of any material change in the use of any buildings or other land constitutes development.

Under Section 191(2) of the Act, uses become lawful once the time limit for enforcement action has lapsed.

The relevant section of the Act is section 171B(3) which states that *"In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach."*

The burden of proof is on the applicant to prove that this use has carried on at the site for a continuous 10-year period. The Local Planning Authority must then assess whether, on the balance of probabilities, the evidence provided by the applicants is of the requisite standard.

Planning Practice Guidance provides that if a local planning authority has no evidence of its own, nor any from others to contradict or otherwise make the applicants' version of events less than probable then there is no good reason to refuse the application, provided the applicants' evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

2. Applicant's Evidence

The application is supported by a Planning Statement which refers to various sources of evidence: a statutory declaration from a son of the late landowner who recently inherited the property, photographs of the buildings outlined in green, red and blue from which are stated to have been taken on 3/10/25, photographs of the building outlined in orange which are stated to date from the 1970s, Google earth screenshots showing aerial images of the site, and miscellaneous photographs which show the buildings and use by greyhounds.

Statutory Declaration (appendix DLA6):

The main points within the statutory declaration are as follows:

- All the buildings to which the application relates have been in situ since the 1960s.
- The building outlined in green was originally constructed as a piggery but has not been used as such since the 1970s, rather it has been used for storage. The condition of this building deteriorated over the last 5 years such that the roof has collapsed. The section of the building constructed with blockwork has been used to store a vintage American car.
- The building outlined in red was used to store animal feed. From the mid-1980s it was used for storage. In 2013 the building was converted to a stable and remains in use as such.
- The building outlined in blue was used as a chicken shed. Since the mid-1980s it has been used for storage. The tenant who rents the building used as a stable uses the building outlined in blue for storage associated with the keeping of the horse including bridle equipment and hay.
- The building outlined in pink was used as a general agricultural store. Since 1980 it was used to store agricultural equipment but is no longer used due to its poor condition.
- The building outlined in orange was built as a dog kennel. The late landowner used to train greyhounds on adjacent land. The building has not been used for this purpose since the 1980s but equipment associated with the keeping of greyhounds (dog bowls, greyhound jackets) remains within the building.
- The buildings have had both electricity and water supply but only the water service remains in use.

Aerial Map Images (appendix DLA5):

Aerial map images from google earth show the site between the years of 2002-2025:

- Image dated 31/03/2025: The buildings appear to be in situ, albeit that the building outlined in green appears to be collapsed to the rear. The surrounding land appears to have been cleared of vegetation with large areas of uncovered earth.
- Image dated October 2024: The buildings outlined in pink and orange are obscured from view by vegetation. The other buildings are also surrounded by vegetation and the building outlined in green appears collapsed to the rear. The building outlined in red appears to have different roof material suggestive of a later repair.
- Image dated March 2022: Surrounding vegetation is not in full leaf but the buildings outlined in pink and orange are not readily discernible. The buildings outlined in blue, red and green appear much the same as in 2024.
- Image dated September 2021: The site appears similar to that of the image in 2024. The site is highly vegetated and only the blue, red and green buildings

are visible. The building outlined in green appears to be in a poor condition.

- Image dated June 2021: The buildings outlined in orange and pink are more discernible but are surrounded by vegetation. The other buildings appear similar to the September 2021 date and are also surrounded by vegetation.
- Images between March 2020-March 2013: The images from these dates show the buildings in a similar condition. In May 2018 and August 2013 there is a vehicle present on site parked adjacent to the building outlined in green.
- Image dated June 2009: The buildings are clearly present on site. An additional building to the south of the orange building is also in situ. The rear aspect of the green building which shows signs of collapse in later image dates appears to be intact.
- Images between December 2007 and January 2002: Within the screenshots of aerial images from these years, the site is in a similar condition to the image from June 2009.

Photographs taken on 3/10/25 (appendices DLA1-DLA3)

Photographs have been provided which the Statement claims are of the green, red and blue buildings, supporting the descriptions of each building provided at paragraphs 4.2-4.4 of the Statement.

The images appear to match the descriptions of the buildings provided within the statement. The red and blue buildings are of a timber construction. There is no photograph of the internal space within the orange building. A photo of the interior of the red building shows that it is filled with hay, with some horse manure present.

In the case of the green building, only the south facing aspect has been photographed. This appears as a blockwork structure with a corrugated metal roof which is partially open to the western aspect, with locked timber doors to the eastern aspect. The building is surrounded by Heras fencing.

The images do not have a time stamp confirming when the photographs were taken.

Photographs of the building outlined in orange (appendix DLA4)

Several photographs of the former kennels building have been provided which are stated to date from the 1970s. There is no time stamp on the photos to confirm this. However, the photos appear to be modern digital images. The images show individual kennels within the building, as well as dog coats and a dog muzzle.

Miscellaneous photographs (appendix DLA7)

The photographs provided at appendix DLA7 are digital images of hardcopy film prints. The first image shows 3 individuals with a litter of puppies at an unspecified location, but which appears to be taken within the site looking east (judging by the rendered terraced houses which are visible in the background which appear to be the dwellings on Barton Road opposite the site). The second image shows an individual with a greyhound. It is not possible to ascertain where this photograph was taken.

The third photograph shows 10 no. greyhounds feeding within an unspecified building. The fourth photograph shows 4 greyhounds outdoors. From the pyramidal shape of the roof of the dwelling in the background, it appears that this photograph was taken within the site looking north.

3. Council's Evidence

Planning History:

Recent planning history associated with the site includes a 2023 application

(reference CB/23/00941/OUT) for the 'Demolition of collapsed buildings and erection of up to 9 dwellings with all matters reserved except access'. This application was refused by the Council and dismissed at Appeal.

Not only does the description refer to the buildings' condition as 'collapsed', but the buildings are also referred to in the supporting documents for this application as 'existing dilapidated buildings' (paragraph 3.2.1 of the LVA). Viewpoint A within the LVA shows the existing buildings at close-range. The green building in particular appears to be in a poor condition with the roof partially collapsed.

Within the LVIA, the uses of the buildings are also referred to, for example *'The proposals would result in the removal of the existing poor delapidated stables and workshops, stable block and horse grazing'* (page 21). Within the planning statement, it is clarified that the buildings are not in use: *'The site is vacant and as shown in the images below, is generally in a poor and unkept condition'* (paragraph 2.2). In relation to the buildings' use, at paragraph, 6.5, it is stated that *'These buildings comprise permanent structures that have been in situ for over 20 years, however, they have become disused and dilapidated in recent years'* (paragraph 6.5).

Part of the justification for the development (whereby there is a presumption against new development outside of settlement envelopes) was that the land represented Previously Developed Land. However, when this matter was considered at Appeal, the Inspector made the following observations:

'9. The appellant suggests that due to the presence of buildings and their curtilages on the site that it should be considered previously developed land (PDL) which would be allowed under Policy SP7. The appellant describes longstanding, permanent structures on the site including greyhound kennels, and an enclosed exercise area to the north of those buildings, as well as other buildings used for storage, and a stable with associated paddocks.

10. Although there is no Planning Permission or Lawful Development Certificate before me to support the suggested uses of the site, I saw a cluster of largely dilapidated, single storey buildings constructed mainly of timber but with some of concrete block or brickwork, together with hardstanding running between these structures leading up to the road. Most structures appeared in a dilapidated state, with some in a state of collapse and merging into the undergrowth. Only a couple of buildings nearest to the site access appeared to be in use, with one building being used as a stable and others appeared to be in use for storage. However, the overall extent of the buildings and associated immediate enclosures and surfacing appeared relatively limited, given the size of the site, and very haphazard in nature, and large parts of the site were open grassland.

11. I have considered the evidence before me, the historical documentation and the local representations both in support of and against the stated uses. However, in the absence of a Lawful Development Certificate I cannot be sure what the use or uses were, whether they were lawful and when some of these uses ceased. Furthermore, it is not for a Section 78 appeal to be determinative on this matter. The appeal site could not therefore be regarded as previously developed land as defined in Annex 2 of the Framework.'

A document submitted with the Appeal at Appendix 14 'Previously Developed Land Evidence' includes 6 images of the site and buildings. Images 1 and 2 are of

the 'Dilapidated building to the rear of storage area' and show a failing timber structure filled with debris. Image 3 appears to be a picture taken externally of the building outlined in green showing the locked bay to the southeastern portion.

Image 4 is taken internally within the southwestern bay of the building outlined in green and shows the presence of waste material including wood and corrugated sheeting, as well as a ladder. Images 5 and 6 are taken internally within the building outlined in orange and show dog kennels and coats within the building.

The document cites the source of the images being 'Applicants own, taken 02/11/2023 and 11/10/2021'. The document contains the following note: *'Please note, buildings in the northwestern section of the cluster of the buildings were inaccessible due to poor structural condition and overgrowth.'*

Prior to this application, a withdrawn application (reference CB/22/03378/OUT) describes the site in the same manner, with the Planning Statement describing the site as follows: *'As existing, the site consists of poorly accessed, disused, and dilapidated agricultural structures'* (paragraph 5.22). The Transport Statement submitted with the application considered the baseline site conditions and declared the buildings as being in agricultural use.

In an earlier 1999 application (reference MB/99/00804/FULL) for the erection of a new dwelling on land to the south of the site, the Officer Report offers the following description of the land: *'Immediately to the north is a small range of former farm buildings. These are mainly of timber construction and are in a delapidated state of repair.'*

Prior to this, a 1985 outline application (reference MB/85/00487/OA) for the erection of 2 no. dwellinghouses on land to the north included a site plan which labelled the buildings to which the certificate relates as 'existing farm buildings.'

Officer Site Visit

A site visit was carried out on 17th December 2025. During the visit, an inspection of the land in concern was carried out and photographs were taken.

From observations made during the site visit, the eastern portion of the red building appeared to be in use as a stable. The interior of the building appeared much the same as the photos in appendix DLA2. The western portion was being used for the storage of various items including a tractor, tools, buckets, a car battery, and equestrian equipment.

The blue building was not accessible at the time of the visit but appeared to be of the same timber construction as in appendix DLA3. Through a gap in the door frame, it was possible to make out some items being stored in the front part of the building including a toolbox, gas cannister, skis, hay, and storage boxes/bags.

The green building was in a poor state of repair - particularly to the rear which was collapsed. The eastern bay of the front part of the building was locked and was not accessible. The western bay was filled with waste materials including plyboard, cardboard, corrugated plastic, roof felt, a gas cannister and a car tyre.

The pink building was almost entirely collapsed at the time of the visit, with the roof caved in and the southern, eastern and western external walls having given way completely. It was not possible to ascertain what this building had been used for as its interior was obscured by debris. At the northern end of the building, through

gaps in the timber walls, it was possible to see what appeared to be a battery, tarpaulin, buckets, and bamboo canes.

The orange building was accessible and was clearly last in use as a dog kennels. Individual kennels were present within the building, along with dog collars, coats, leads and a muzzle.

Photos provided following site visit

At the request of the officer, photos were provided of the interior of the buildings which were not accessible at the time of the visit. These included a photo of the rear of the blue building which had sectioned off bays along a central corridor, a photo of the front of the blue building which was filled with hay, and two photos of the eastern portion of the green building which was housing a car, as well as car maintenance/workshop items.

Parish Council objection

The Parish Council have raised concerns regarding contradictions in the application compared to observations made by the Inspector in the Appeal of the previously refused application with regard to the use of the site and the condition of the buildings.

The Parish Council acknowledge that the building in red is used as a stable and that the building outlined in blue is used for storage by the stable occupant. The Parish also acknowledge that part of the building outlined in green has been used to for vehicular storage; however, the Parish requested that further evidence of this is provided, including the length of time the building has been rented.

The Parish state that the buildings outlined in orange and pink have not been used in 17-20 years and that their use has therefore been abandoned.

The Parish request that if a certificate is granted, it should refer only to the blue, red and green buildings and specify the type of use, as well as removing permitted development rights.

Whilst the above is noted, for clarity, an LDC (existing) is declaratory only and cannot impose conditions or remove permitted development rights; any such controls would require a different statutory route.

Objections from 3rd parties

A total of 6 objections have been received from 3rd parties. The content of these objections describes the poor condition of the buildings and the fact that they have been overgrown with vegetation until recently. The objections state that this is indicative of abandonment and calls into question their continuous use for the relevant 10-year period.

The objections also draw attention to contradictions in the way the buildings are described in previous planning application submissions as 'collapsed' or 'dilapidated' and 'not in use' and the current application. The absence of evidence demonstrating continuous commercial use - eg. invoices, rental agreements, utility bills, and business rates details - is also noted.

Some comments received refer to concerns related to the absence of evidence of residential use on the land, and with the planning merits of the previously refused application for new residential development, drawing attention to the strong local opposition to this previous proposal. These matters are are not relevant considerations under the LDCE (as per the NPPG).

Aerial Map Images:

Images taken from Google Earth are provided within the Planning Statement at appendix DLA5. These images align with the dates available using Google Earth.

Enforcement

As stated in s191 (2)(b) TCPA 1990, for development to be deemed lawful, it should not constitute a contravention of any requirements of any enforcement notice then in force. The Council is satisfied that there is no enforcement notice in force in relation to the site.

For the purposes of assessing materiality and continuity, the LPA has considered the 'planning unit(s)'. On the site inspection and historic material, each of the red, blue and green buildings appears capable of functioning as a discrete unit. However, activity observed within each was limited to small parts and was intermittent in character. In the absence of precise floor-area plans and continuous-use evidence for any identified part, the LPA cannot be satisfied, even at a sub-unit level, that any such part has been in continuous use for a 10-year period.

4. Assessment of the Applicant's Evidence

Statutory Declaration:

Only 1 statutory declaration has been provided by the son of the former landowner so this cannot be corroborated by any other accounts.

There is no evidence to suggest that the buildings on site have not been in situ since the 1960s. Their construction and physical condition suggests that they have been in situ for a significant length of time.

In relation to the building outlined in green, observations made during the officer's site visit corroborate that the building has indeed fallen into a state of disrepair. The declaration states that this happened within the last 5 years, however, this is contradicted by Google earth images which show that the roof was significantly damaged since at least October 2016. The claims that part of the building is used for storage, including the storage of a vintage car were confirmed during the officer's site visit, as well as by photos later provided by the applicant.

However, the nature of the storage is unclear. Within the western portion of the front part of the building, the 'storage' which appeared to be taking place was, in the majority, of waste materials including wood and roofing materials. Whilst the presence of a vehicle within the eastern front aspect has been confirmed by photographs, there is no evidence provided confirming the length of time that this storage use has been taking place.

In relation to the building outlined in red, the statutory declaration states that the building was converted to a stable in 2013. Part of the building appears to be used as a stable (albeit that no horse was present at the time of the visit), with part of the building also being used for mixed storage (including equestrian items). It is not possible to confirm how long the stable use has been carried out from other information provided with the application. Google earth images show that the field to the south of the building has had an animal present (in 2017 and 2025), and there appears to be hay to the south of the building since October 2016.

In relation to the building outlined in blue, the statutory declaration claims that this building was formerly a chicken shed. This is corroborated by images provided by the applicant whereby the interior of the building is clearly designed to

accommodate chicken coops. The declaration states that the building has since been used to store bridle equipment and hay. However, this was only observed in the southern part of the building.

The southern part of the building has some hay stored within it, as well as other miscellaneous items. It does not appear that the northern aspect of the building (where the chicken coops are located) is used due to the poor condition of the building.

The statutory declaration states that the building outlined in pink was formerly used for general agricultural storage but is now no longer used due to its poor condition. Whilst the nature of the use of this building could not be confirmed during the Officer's site visit due to the building's collapsed state, the apparent condition of the building confirms the lack of use detailed within the statutory declaration. The lack of use of this building is also noted within the objection of the Parish Council.

In relation to the building outlined in orange, the statutory declaration states that this building was used as a greyhound kennel. The presence of greyhounds at the site is corroborated by other evidence provided within the statement at appendix DLA7. Observations made during the officer's site visit also indicated that the building was last in use as a dog kennel. The statutory declaration states that the kennel use ceased in the 1980s. There is no evidence to contradict this position. Comments received from the Parish and 3rd parties state that this building has not been used for a significant amount of time.

In relation to utilities, the statutory declaration claims that the buildings had electricity supply and water supply but that only water remains connected. Observations made during the site visit in relation to the building outlined in orange confirm this; the building had a sink with taps and a boiler, as well as an electricity box mounted to the wall.

In the eastern front bay of the green building where the car is present, there are wires and strip lighting indicating that electricity has been available at some point. The photos of the northern part of the blue building provided by the applicant show light fittings which also indicate electricity supply. It was not possible to confirm electricity or water supply in other buildings during the site visit.

Aerial Map Images:

The aerial map images serve as evidence that the buildings have been in situ since at least 2002.

However, until 2025 when vegetation around the buildings and upon the land to the north was cleared, it appears that the orange and pink buildings have been covered by vegetation to the extent that they do not appear readily visible, suggestive that they have not been accessible. This is particularly apparent between 2020-2024.

The images show only a birds eye view of the buildings and do not provide evidence of any particular use taking place within the buildings. However, in the case of the building outlined red there is some evidence of equestrian use on land around it; from 2016 onwards, an animal (potentially a horse) can be observed grazing within the field to the south of the building, with hay present on land to the south of the building emanating from the eastern portion of the building.

The statutory declaration states that the building was converted to a stable in 2013. There are no images between August 2013 and October 2016 which demonstrate

any changes within the building. However, from 2016 onwards, the hay is present outside of the building which could be suggestive of equestrian use.

Another matter which can be discerned from the aerial images is the buildings' deteriorating condition. In 2007, all buildings appear to be in good condition, with the roof structure still intact. By 2016, the roof of the building outlined in green appears to be uncovered to the northern and eastern aspects. Observations made on site - whereby the rear part of the building was entirely collapsed with the land around it covered with building debris - provide indication that the majority of this building will have been uninhabitable for a considerable amount of time. This is also confirmed by observations made by the Inspector in the Appeal decision.

Photographs taken on 3/10/25 (appendices DLA1-DLA3)

The photographs taken in October 2025 provide a snapshot in time of the buildings outlined in green, red and blue. They corroborate observations made as part of the Officer's site visit regarding their external appearance and condition, however, they do not provide evidence of long-term usage.

Photographs of the building outlined in orange (appendix DLA4)

The photos provided at appendix DLA4 are stated to be from the 1970s. However, the condition of the building as observed within the photos appears to align with its current appearance and the photos appear to have been taken more recently than the 1970s.

Nevertheless, it is apparent from other evidence - including site observations, the statutory declaration, and comments from the Parish/3rd parties, that the building outlined in orange was clearly last used for dog kennels but has not been used as such for a long period of time.

Miscellaneous photographs (appendix DLA7)

The photographs provided at appendix DLA7 appear to show the presence of greyhounds on land around the buildings. No timestamps are provided; however, the images add weight to the other evidence obtained regarding the use of the orange building as dog kennels.

5. Whether the buildings are in lawful use for storage (B8), stable (sui generis), dog kennels (sui generis) and agricultural storage (sui generis) use

Under Section 191(2) of the Act, uses become lawful once the time limit for enforcement action has lapsed.

of s.171B TCPA 1990. Section 171B(3) states;

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

The statutory declaration for uses at the site indicates that the land and buildings have passed down through the family since the time of the declarant's grandparents. The uses associated with the green, blue, red and pink buildings as they stood in the declarant's earliest memories are of an agricultural nature; including a piggery, a chicken shed, and agricultural stores.

Indeed, the site layout and the nature and design of the buildings in situ indicates that the site is of an agricultural character.

The orange building is of a later construction, having been erected as a dog kennels in 1970. This building has not changed use. However, it has not been used since the 1980s.

The statutory declaration and supporting document reference 2025/504 states that the green building has been used for storage since 1970, that the red building has been used as a stable since 2013, and that the blue building has been used for storage since 1980. The pink building is stated not to be in use due to its condition.

For a change of use to have occurred, it must be material and more than a use which is ancillary to another.

DCP case notes provides guidance on whether a change of use is material. Whether or not a material change of use has taken place is a matter of fact and degree, depending on the circumstances. The case of *East Barnet UDC v British Transport Commission* [1962] provides the authority that a material change of use must be material 'for planning purposes.' DCP case notes guidance provides that the two main tests for establishing whether or not a change of use is material are

1. change in the character of the use itself, including the land where it is located;
2. effects of the change upon neighbouring uses and the locality.

In the case of the building outlined in red, there is evidence of current equestrian use by virtue of the presence of hay and horse manure within the building. This is also corroborated by aerial map images and by comments received from the Parish and 3rd parties. Part of the building is still used for the storage of some agricultural items including a tractor.

The evidence contained within planning documents associated with previous applications on the site calls into question the long-term use of the building as a stable since the buildings on site are described as disused. Images of the building provided within the LVA for CB/23/00941/OUT do not clearly indicate its use. However, a horse is present within the adjacent field within viewpoint A.

Aerial map images also show a horse present on the adjacent field and hay to the south of the building since October 2016. This falls short of the relevant 10-year period, however, there are no images available on Google Earth between 2013 (when the use is stated to have commenced) and 2016. Overall, there is not sufficient evidence to demonstrate that a material change of use to stable use within the entirety of the building outlined in red has taken place for the relevant 10-year period.

In the case of the building outlined in blue, only the southern aspect appears to be actively used for storage; albeit this is not all of an equestrian nature, with some domestic items present. No additional supporting information has been provided to detail the length of time the storage use has been carrying on, nor any indication of whether the building is rented for this purpose. The majority of the building is in poor condition, was not accessible at the time of the site visit, and - from photos provided by the applicant during the course of the application - does not appear changed from its previous use as a chicken shed.

Whilst evidence of some storage taking place within the front part of the building was observed at the time of the site visit, this is considered to be de minimis, considering the relatively small portion of the building which is being used for this

purpose. The length of time the storage has been taking place has not been confirmed by additional supporting information. When considered alongside other evidence in the form of materials submitted with the previous planning applications – for example, the PDL Statement at Appeal Appendix 14 where this building is referred to as being inaccessible due to poor structural condition and overgrowth – it is considered that the building has not been in storage use for the relevant 10 year period.

It is therefore considered that a material change of use from agricultural to B8 storage has not taken place in relation to the building outlined in blue.

In relation to the building outlined in green, it is apparent that there is storage of miscellaneous waste materials occurring in the western front bay, with vehicular storage taking place in the eastern bay. No information has been provided as to how long these uses have been taking place. Outwardly, the building does not appear to be visited frequently since it is surrounded by security fencing. The rear part of the building is entirely collapsed.

Whilst there is vehicle storage use taking place within the southeastern bay, no details have been provided as to how long this has been carried out. The statements made within the documentation previously used to support the Appeal of CB/23/00941/OUT contradict this position since the site is described as being vacant. The storage taking place within the southwestern bay appears haphazard and incidental. The materials within the building appear indistinguishable from the debris which is present on site from the collapsed buildings.

Given the above, it is not possible to confirm that a material change of use to storage has taken place for the relevant period in relation to the building outlined in green.

The objection of the Parish Council and 3rd party objections have raised the issue of abandonment. It is therefore necessary to consider whether the buildings to which the application relates have been abandoned.

In the alternative, and in any event as regards the pink and orange buildings “Abandonment” is a legal premise used to describe the circumstances in which rights to resume a use which has been lawfully carried on in the past may be lost because of the cessation of that use. Although not directly related to the consideration of the application - which seeks to establish the lawful uses of the relevant buildings by passage of time - it is nevertheless relevant to consider the principle of abandonment since the uses of the buildings are, in some cases, unclear. This is partly due to their poor condition which renders establishing a use difficult.

The criteria under which a use can be held to have been abandoned was established in the case of *Trustees of Castell-y-Mynach Estate v SoS* [1984]:

- the physical condition of the building;
- the length of time for which the building had not been used;
- whether it had been used for any other purposes; and
- the owner's intentions.

As established later by the *Thurrock* case, the burden of proof in demonstrating

that a use has not been abandoned rests with the applicant.

The green and pink buildings on site are in a poor state of repair - including total collapse of either the whole building (in the case of the pink building) and the northern section of the green building.

Although related to residential use rather than storage use, in an appeal decision APP/G5180/C/02/1100186 at a site in Orpington, Kent, an Inspector found that the Council's decision to refuse a lawful development certificate for the rebuilding of a fire damaged dwelling was well-founded. The use had been extinguished by virtue of the destruction of the previously existing building.

In making this judgment, the Inspector relied on the case of *Iddenden v Secretary of State for the Environment* [1972] which establishes the principle that the use of a building is extinguished upon its destruction.

Given the state of the pink buildings and parts of the green building - which are in such a state of dilapidation that it would be physically impossible for them to be occupied for any use - it is considered that they have been abandoned. As such, it cannot be said that they are in lawful storage use.

In relation to the building outlined in orange the use of this building as a kennels is stated to have ceased in the 1980s. This position is supported by other evidence (aerial photographs, statements within the Appeal documents for CB/23/00941/OUT) which show the area around this building to be considerably overgrown in the intervening years until 2025. No other evidence contradicts this position.

Having regard to the principles in *Trustees of Castell-y-Mynach Estate v Taff-Ely BC* [1985], the building outlined in orange has not been in use for some 40 years and there is no evidence of any intervening use in this time. With regard to the physical condition of the building, from observations made as part of the site visit, combined with evidence obtained from previous planning applications, it is evident that the building is in a poor state of repair, having been left to deteriorate for a number of years. In terms of the owner's intentions, it is noted that several planning applications (references CB/25/01567/FULL, CB/23/00941/OUT and CB/22/03378/OUT) for the demolition of the building (and all other 'collapsed' buildings) on site and the erection of residential dwellings have been submitted.

This matter, coupled with the lack of repair work carried out on the building and others at the property, is considered to be indicative that there is not an intention to bring back into use the dog kennels; rather the desire is to redevelop the site for residential use.

Applying the relevant legal test in *Trustees of Castell-y-Mynach Estate v Taff-Ely BC* [1985], it is considered that a reasonable onlooker, with knowledge of all the circumstances, would conclude that the buildings had been abandoned.

6. Other Considerations

Human Rights and Equality Act issues:

Based on information submitted there are no known issues raised in the context of Human Rights / The Equalities Act 2010 and as such there would be no relevant implications.

7. Conclusion

The application has to be assessed on the balance of probability. Planning Practice Guidance provides that if a local planning authority has no evidence of its own, nor any from others to contradict or otherwise make the applicants' version of events less than probable then there is no good reason to refuse the application, provided the applicants' evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

It is evident from images available via Google earth that several of the buildings have been left in a dilapidated state for a number of years, with no apparent efforts to make the necessary repairs to secure their condition. The site appears to have been untended over a number of years, with vegetation left unimpeded, such that some of the buildings are entirely obscured from aerial view for years at a time until the site's eventual clearance in 2025.

Whilst there is some evidence of the uses described within the application taking place on site, including at the time of the Officer's site visit, the uses described are of a scale and nature which renders them de minimis – particularly given they are only taking place in a relatively small portion of the buildings in concern; in the case of the buildings outlined in green, and pink, the majority of the buildings are entirely dilapidated.

Moreover, minimal evidence has been provided as to these uses having taken place for the relevant 10-year period. Other evidence obtained from previous planning application documents directly contradicts the assertion that the buildings have been in use; the site has repeatedly been described as 'vacant', and 'unkempt' with the buildings referred to 'dilapidated', or 'collapsed', as in the description of development for application references CB/23/00941/OUT and CB/22/03378/OUT.

As such, the Applicant's evidence is not considered to be sufficiently precise and unambiguous to justify the grant of a certificate.

The evidence provided is not considered sufficient to prove that on the balance of probability, that the buildings which form the subject of the application have been used for storage, a stable, and kennels for a continuous period of 10 years. In the case of the kennels building, the use is considered to have been abandoned.

Under Section 191(4) the authority has considered whether a certificate could be granted in part (for identified parts of buildings). Given the lack of precise plans and year-by-year corroboration for any discrete part, that option is not supported on the balance of probabilities.

Recommendation:

That the Certificate of Lawfulness be **REFUSED**.

RECOMMENDED CONDITIONS / REASONS

- 1 On the basis of the evidence submitted, the Council considers that, on the balance of probability, it has not been demonstrated that the land and buildings to which the application relates were used continuously for a period of ten years or more for the uses described within the application.

			Tick Box
1	No member has requested that this application be referred to Committee		x
2	Where the proposal is for major development and it is proposed to grant permission	There are no unresolved objections from the Town or Parish Council	n/a
		The application is not a departure from established planning policies	n/a
3	The application is not submitted by a member of the Council		x
4	The application is not submitted by an officer of the Council		x
5	The Council is not the Applicant		x
6	The application is made under Regulation 3 or for development of the Council's own land and no representation has been made that is contrary to the recommendation, except where, in the case of an objection, this can be resolved by the imposition of conditions		n/a

This application therefore complies with the criteria laid down for determination under **delegated** powers.