

Delegated Report

Lawful Development Certificate (Existing)

Application no:	20240251
Location	Oakleigh Farm, Buckland Road Higham Rochester
Proposal:	Application for a Lawful Development Certificate in respect of the existing area outlined on the submitted site location plan that has been used for the commercial storage of caravans, vehicles and containers for a continuous period.
Applicant:	Mr James Worley
Site Visit	3 rd July 2024

Plans & Documents

Planning Application Form;
Supporting Planning Statement;
Drawing No. 010 Rev A – Site Location Plan; and
Drawing No. 020 Rev A – Existing Block Plan.

Property Type

The property comprises an located to the west of the main complex of buildings known as 'Oakleigh Farm'.
The site plan is shown below:



Material Consideration

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Relevant Planning History

Reference	Description	Decision	Decision Date
20080858	Continued use of the land for a parking area for a caravan, motor home and horse boxes for a temporary period.	Permission	30.10.2008

Development Plan

As this is an application for a Lawful Development Certificate the matter is dealt with on the basis of an assessment of the available evidence; the issue of whether the use complies or not with the Development Plan does not apply in such circumstances.

The Law

The law relating to Lawful Development Certificates can be found in Sections 191 to 193 of the Town and Country Planning Act 1990 (as amended). For the purposes of this application the relevant section is 191, being a certificate sought for an existing use.

Consultations, Publicity and Representations

There is no statutory requirement to consult third parties. However, as this is an application for an existing use, the application has been advertised by letters to Higham Parish Council and the local Ward Councillors, with no responses. One letter from Dickens Country Protection Society has been received making the following comments:

Dickens Country Protection Society

The site is in an area within which Green Belt Policies apply. The use of is in breach of Green Belt Policy. The Society notes, it appears that the activity has been taking place unlawfully. The existing caravans do not appear to be connected with agricultural activity. The Society also notes the application appears to be for full planning consent for commercial storage of caravans, vehicles and containers. No very special circumstances have been put forward that would warrant overriding Green Belt Policy. In the Society's view the proposed use would do potential harm to the Green Belt by impacting on the openness of the Green Belt and the rurality of the area.

Officer Comment:

It would appear that the Dickens Country Protection Society have submitted comments relating to the full planning application that has also been submitted under reference 20240099 - Change of use of an agricultural building to a light industrial use under use Class E(g), which is also under consideration. This current application is an application for a lawful development certificate to an existing use and therefore Green Belt Policy does not apply in this case.

Multiple letters and emails have been received from one objector which relates to the 20240099 Change of Use application, however the following comments was submitted in relation to the current lawful development certificate application:

03.05.24

The above LDC application is similar to LDC application 20230681 in that the applicant is attempting to seek approval for an area larger than that can be proven to be used continuously for a period of 10 years or more.

Below is an extract of the applicants supporting statement document at section 1.4. I have taken the liberty to highlight the areas in blue within the applicants red line boundary that have not been used continuously for 10

years or more using aerial photographic imagery. We sincerely hope the council seek to uphold and protect the greenbelt and reduce the area proposed by the applicant significantly. In addition we completely agree with the Dickens Country Protection Society comments within there letter dated 12th April 2024.

- 1.4. The Council stipulated that the reason for the imposition of this condition was as permission was granted in exceptional circumstances and in order for the council to review the situation at the end of the period granted.



Google Earth extract illustrating site subject of LDC application

Officer Assessment

The application seeks to determine that the area marked red on the submitted site plan (Drawing No. 010 Rev A), as shown above, has been used for the commercial storage of caravans, vehicles and containers for a continuous period, and this use is lawful for planning purposes under Section 191 of the Town and Country Planning Act 1990 by virtue of the passage of time. Section 171B (3) of the Town and Country Planning Act 1990 prescribes:

- '(1) 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 four years beginning with the date on which the operations were substantially completed.*
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.*
- (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.'*

In order to determine this application for a Lawful Development Certificate and in accordance with S171B of the Town and Country Planning Act 1990 (as amended), it must be established whether or not the application site has been used for commercial storage for more than 10 consecutive years, i.e. prior to 2014.

Para. 6 of the Government Guidance on Lawful Development Certificates states that:

'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.'

Evidence

The submitted Supporting Planning Statement includes aerial photographs for the entire site, dating back to November 2011 and shows a number of caravans, vehicles and containers that sit within the red line boundary of the site. This is followed by further aerial photographs dated July 2013, July 2014, April 2015, May 2018, April 2020, February 2021 and August 2022 which are all consistent with each other in terms of site layout, scope, vehicle positions and presence.

Paragraph 5.4 of the Supporting Planning Statement states *"The above Google earth imagery demonstrates a continuous use from November 2011 – August 2022. While aerial photography is not available from 2023 and the current year (2024), the site continues to be in use as commercial storage. Further evidence of this use was obtained during a site visit carried out with our client in February 2024. As a result, the evidence substantiates that the site has been in use for a period in excess of 10 years."*

Council's Evidence

The satellite images, together with the officer site visit are all consistent with the evidence that has been submitted with this application, which can be seen from a number of photographs below



The officer site visit, together with satellite images shows that the site has been used for commercial storage of caravans, vehicles and containers, in line with the evidence within the submission.

The Council therefore has no evidence to contradict the information and statements provided by the applicant.

Summary

In conclusion, the Council has no evidence to dispute that the area outlined in red on the submitted site location plan (Drawing No. 010 Rev A) has been used for the commercial storage of caravans, vehicles and containers for a continuous period in excess of 10 years and therefore the recommendation is to grant the certificate of lawfulness.

Recommendation: Grant of Lawful Development Certificate

Case Officer:	Ms Amanda Cue	Team Leader:	Richard Hart
Signed:		Signed:	
Dated:	16 th July 2024	Dated:	17 th July 2024