

Report to be read in conjunction with the Decision Notice.

Signed:	Officer:	LW	Date:	26/11/25	Manager:	KH	Date:	28/11/25
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Application Ref:	3/2025/0808			 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	N/A	Site Notice:	N/A	
Officer:	LW			
DELEGATED ITEM FILE REPORT:				REFUSAL

Development Description:	Certificate of Lawfulness for existing use of land as residential use.
Site Address/Location:	Fletcher Farm, Osbaldeston Lane, Osbaldeston, BB2 7LY.

CONSULTATIONS:	Parish/Town Council
N/A	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
LCC Highways:	N/A

CONSULTATIONS:	Additional Representations.
N/A	

RELEVANT POLICIES AND SITE PLANNING HISTORY:

The Town and Country Planning Act 1990 Section 191

The Planning and Compensation Act 1991 Section 171B Time Limits

Relevant Planning History:

3/2016/1008: Change of use from agricultural land and construction of horse training menage with associated fencing and services (Approved).

3/2013/1014: Erection of single storey stable block providing 3no. stables and associated track and feed store (Approved).

3/2005/0413: Proposed two car garage (Approved).

3/1999/0516: Two storey extension to form lounge/kitchen/bedroom and replacement porch (Approved).

3/1997/0307: Extension of existing farmhouse (Approved).

ASSESSMENT OF PROPOSED DEVELOPMENT:**Site Description and Surrounding Area:**

The application relates to Fletcher Farm, a detached residential dwellinghouse accessed off Osbaldeston Lane. The site to which the proposal relates is located outside of any defined settlement area and on land which benefits from an Open Countryside designation.

Proposed Development for which consent is sought:

The application seeks to establish the lawful use of an area of land as domestic curtilage in association with the residential property known as Fletcher Farm, having regard to Section 171(B) of the Town and Country Planning Act 1990. It is the applicant's claim that the land has been used for domestic purposes for a period in excess of 10 years.

The application is being made in accordance with Section 191 of the Town and Country Planning Act 1990, and the onus is on the applicant to prove 'on the balance of probability' that the domestic use of the land is lawful.

National Planning Practice Guidance 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 is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability'.

Other Matters:

The main issue is whether or not there is sufficient evidence to support that there has been a continuous domestic use of the land in question for more than 10 years before the date of this application, in relation to the provisions of Section 171(B) of the Town and Country Planning Act.

Section 171(B) of the Act provides timescales whereby unauthorised development becomes immune from enforcement action and as such becomes lawful. With respect to the change of use of land, Section 171(B) reads as follows:

"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."

It is the applicant's claim that the land the subject of this application has been used as domestic curtilage since 2007. In terms of supporting evidence, the application has been accompanied by a Planning Statement, including a series of aerial photographs from 2009 to 2023, and two signed statements of truth from the previous owner of the property and the applicant.

The information contained within the supporting documents can be summarised as below:

- Since 2007, the land has remained grassed and regularly mown, not left fallow or used as agricultural pasture at any time.
- Prior to 2014, 2no. garden sheds, a hen cabin, and a small chicken run were present on the land.
- In 2014, planning permission was granted for a stable block on the land (ref: 3/2013/1014) subject to a condition limiting use to private enjoyment. It is the applicant's claim that this condition emphasises the non-commercial and ancillary nature of the land. Reference is also made to the application form submitted under 3/2013/1014 which stated the existing use of the land to be 'residential garden'.
- The only enclosed livestock on the land has been the family's horses, housed in the permitted stable with no livestock or business activities (such as livery or breeding for gain) having been carried out.
- Domestic garden items (children's play equipment, furniture, clothesline, BBQ, trampolines) have been present regularly on the land.
- A wooden pump house was installed to serve the pond around 10-15 years ago which the applicant claims is a domestic garden feature.

- Since the applicant moved into the property in 2022 the land has been used for socialising, play and recreation. The land is kept mown and well maintained.
- Reference is also made to existing buildings having been utilised for general domestic storage, the parking of cars and trailers, and as workshop space for non-commercial purposes, with the land itself also being used in association with the family dog, including the construction of a kennel.

With respect to the stable block, it is acknowledged that the application form submitted in support of application 3/2013/1014 does state the use of the land to be 'residential garden'. However, this is given limited weight as land directly adjacent to lawful curtilage and under the same ownership of a dwellinghouse can often be mistakenly referred to as residential garden. In addition to this, the development was submitted as a full planning application (not a householder application for development within the curtilage of a dwellinghouse) with the delegated report stating *"The owners of Fletcher Farm (the applicants) also own two fields that adjoin the western boundary of their rear garden [...] The applicant seeks full planning permission for the erection of a building on the smaller of those two fields"*.

Reference is also made to a condition attached to planning permission 3/2013/1014 which limits the stable block to private use only. However, the use of the land for the private stabling of horses by the owners of Fletchers Farm does not mean that it automatically has an associated domestic use. In this respect, the absence of any commercial activity on the land does not constitute evidence relating to its use as residential garden.

It is acknowledged that the aerial photographs show the land in question as physically separated from the adjacent field which now includes the menage approved under application 3/2016/1008 and having been maintained; however, this is not a clear indication of domestic use. The fact that it is accessed from Fletchers Farm and has been maintained by the owners does not mean it automatically has an associated residential use. It is noted that the submitted supporting information states that domestic garden items have regularly been present on the land and it is acknowledged that an aerial photograph dated May 2009, as well as an undated photograph, shows a trampoline situated within the eastern extent of the land in question. However, the presence of domestic paraphernalia in the aerial photographs from 2015 to 2023, so as to indicate the continuous use of the land as domestic garden, is unclear. As such, this evidence is given limited weight.

It is clear from the aerial photographs that since 2018 additional development has been carried out on the parcel of land, including the laying of new hard surfacing and construction of additional buildings to the north and east of the approved stable block. The information included within the planning statement suggests that these buildings have been used for domestic storage, the parking of cars and trailers, a workshop and kennelling for the family dog. However, these structures do not benefit from formal planning consent, and no clear evidence of their domestic use has been provided.

As confirmed in the National Planning Practice Guidance, the onus is on the applicant to demonstrate that the land has been continuously used for residential purposes for a period of at least 10 years and that the applicant's evidence must be sufficiently precise and unambiguous even in the absence of any contradictory evidence. For the reasons stated above, it is not considered that the level and quality of information/evidence submitted with the application is 'precise and unambiguous' in order to justify that the Lawful Development Certificate should be issued.

Observations/Consideration of Matters Raised/Conclusion:

On the basis of the available evidence and the balance of probabilities, it is not considered that the land subject to this application has been used for domestic purposes in association with the residential property known as Fletcher Farm for a continuous period in excess of 10 years and therefore is not considered lawful by virtue of Section 191 of the Town and Country Planning Act 1990.

RECOMMENDATION:	That the Certificate of Lawfulness be refused for the following reason:
01:	The applicant has failed to demonstrate that, on the balance of probability, the land to which the application relates has been used for domestic purposes for a continuous period in excess of 10 years, and therefore the use is not considered lawful by virtue of Section 191 of the Town and Country Planning Act 1990.