

Monday, 06 October 2025

Planning Statement

Fletcher Farm, Osbaldeston, BB2 7LY

Certificate of Lawful Existing Use or Development (CLEUD) for residential use of land

[Requirements to Grant the Certificate](#)

This application has been submitted to support a CLEUD application relating to land at Fletcher Farm, Osbaldeston (BB2 7LY), which has been used as part of the domestic garden and residential curtilage of the dwelling for well over ten years. The applicant, Mr. Taras Paprockyj, is therefore seeking a Certificate of Lawful Existing Use or Development (CLEUD) under Section 191 of the Town and Country Planning Act 1990 to confirm that the use of the land as for residential use is lawful.

The evidence demonstrates that the land has been in continuous residential use throughout this period, with no interruption and no enforcement action taken by the local planning authority. Section 191(2) of the Act provides that an existing use is lawful if enforcement action may no longer be taken, for example because the relevant ten-year period has elapsed. The legal test is whether, on the balance of probability, the use began more than ten years before the application and has continued without interruption.

In this case, no complaints or enforcement notices have ever been issued in relation to the land. Furthermore, the Council itself granted planning permission in 2014 for the erection of stables for “private use only,” with no associated change of use of the land to equestrian, thereby implicitly recognising the land as being in residential use. National planning guidance makes clear that where the local planning authority holds no evidence to contradict the applicant’s case, and no other reason exists to doubt it, there is no proper basis for refusing a certificate.

On the balance of probabilities, the land has been used continuously and lawfully as residential garden land for in excess of ten1 years. The application therefore satisfies the statutory requirements for the grant of a CLEUD.

[Section 191](#)

Section 191 of the Town and Country Planning Act (as amended by S10(1) of the Planning and Compensation Act 1991) states:

If any person wishes to ascertain whether

- a) any existing use of buildings or other land is lawful,
- b) any operations which have been carried out in, on, over or under land are lawful, or
- c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

For the purposes of the Act uses and operations are lawful at any time if:

- a) no enforcement action may then 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.

If the local planning authority are provided with the information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted, they shall issue a certificate to that effect. In any other case they shall refuse the application.

Paragraph: 006 Reference ID: 17c-006-20140306 of the NPPG states "the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counterevidence".

This certificate of lawfulness application is seeking to demonstrate the land has been used for residential purposes for at least 10 years prior to the submission of the application.

Section 171b

Section 171b of the Town and Country Planning Act 1990 states that:

(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:

(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed

This planning statement accompanies documentary evidence, which shows that the land has been used as residential garden land for over 10 years, and as such has gained immunity from enforcement action. As such, a CLEUD should be granted without delay.

Site Background and Planning History

Discussions have taken place with the previous owner. Since at least 2007, the land has remained grassed and regularly mown (approximately every two weeks in summer, according to the previous owner) and has consistently supported the household's recreational needs. Prior to the stables being built, there were 2 no., garden sheds on the land, a hen cabin and a small chicken run.

Planning permission was granted in 2014 for a stable block comprising three loose boxes and a tack/feed store (ref. 3/2013/1014/P), subject to a condition limiting use to the private enjoyment of the family. This restriction emphasises the non-commercial and ancillary nature of the site. It should be noted that within the application form for application 3/2013/1014/P, the use of the land was correctly listed as "residential garden".

Following the erection of the stable, the residential use of the land was not altered, and it was still enjoyed as part of the family's residential curtilage, with residential paraphernalia such as

trampolines, swings, slides, play equipment, garden furniture and clothes drying aids present on the land.

The land was also utilised for family parties, meals, BBQs and children's play during this period.

Furthermore, a small pond and pump-house have also been in place for around 15 years, providing a pump and filter system and serving household enjoyment of the garden, again, a wholly domestic feature. A signed statement of truth from the previous owner accompanies the application to confirm this.

Since Mr. Taras Paprockyj moved into the dwelling on [REDACTED] the land has provided space for socialising with friends and hosting gatherings, including larger events where temporary structures such as gazebos have been erected. The applicant's family, including children, have regularly used the land for play and recreation, taking advantage of the open area. The land is kept mown and well maintained on a weekly basis, weather permitting. A signed statement of truth from the current owner accompanies the application to confirm this.

The existing buildings have been utilised for general domestic storage, the parking of cars and trailers, and as workshop space for non-commercial purposes. The land has also been used for exercising the family dog, with daily play taking place, and a dedicated kennel has been constructed to provide shelter for the dog during the day when the property is unoccupied.

In addition, significant improvements have been made to the land, most notably the planting of a substantial evergreen hedge, which enhances privacy from neighbouring properties. Overall, the applicant has devoted considerable time to the upkeep and enjoyment of this land.

As such, it is not considered that since the change of use was first made the use has been abandoned.

Importantly, there have been no enforcement notices regarding the garden use.

In summary, the planning history of the site is entirely consistent with its continued and lawful use as a residential garden.

[Evidence of Continuous Domestic Use](#)

All available evidence points to an ongoing domestic use. Key factual points (based on owner testimony and records) include:

From [REDACTED] the land was owned by one family ([REDACTED]) and maintained as part of their garden, and since [REDACTED] by the applicant (Mr Taras Paprockyj).

The land was mown and tended and was not left fallow or used as agricultural pasture at any time.

The only enclosed livestock were the family's horses, housed in the permitted stable; no livestock or business activities (such as livery or breeding for gain) were ever carried out. All horse-keeping on site was wholly private/family use.

Domestic garden items (childrens' play equipment, furniture, clothes line, barbecue, trampolines, etc.) have been present regularly on the land over the years.

A wooden pump-house was installed to serve the pond (circa 10-15 years ago). This is a domestic garden feature, not an agricultural structure.

No evidence suggests any period of non-use or change away from garden use. In particular, there were no gaps in maintenance or accessibility, and discussions with the previous owner's confirms the residential use was never abandoned.

In the case of LDC appeals, Planning Practice Guidance advises that an applicant must show lawful use on the balance of probability and if the authority has no contrary evidence, there is no good reason to refuse

Here the applicant's uncontradicted evidence of over 15 years of garden use (far exceeding the 10-year immunity period) strongly supports the certificate.

A series of aerial photographs provides clear evidence of the long-term use and development of the annexed land as part of the domestic garden. The images demonstrate continuous occupation, maintenance, and enhancement of the land from 2009 through to the present day. Key stages are summarised below, with reference to the accompanying photos:

31 May 2009 - The initial annexation is apparent with the erection of a fence enclosing the land. The grass is clearly mown, and the area is used for domestic purposes, evidenced by the presence of a trampoline, swing, small shed, children's slide and other garden items.



22 April 2015 - The land remains mown and in active use, with sheds in situ. Markings on the ground indicate preparations for a stable, which was subsequently approved on the basis that it was to be used ancillary to the main dwelling.



17 July 2017 - The stable has been constructed. The wider garden area shows a variety of domestic paraphernalia consistent with long-term garden use.



28 June 2018 - Additional works are evident, including the laying of new paths within the annexed area. The grass remains well kept. A new concrete yard and further shed have been installed to the north of the stable.



24 April 2020 - The land continues in the same pattern of use, with no interruption or change in character.



7 September 2021 - As above, with the addition of a further shed located to the east of the stable.



23 June 2022 - The land continues to be maintained and used in the same manner.



5 June 2023 - The most recent image confirms the position remains unchanged, with the annexed land fully integrated into the garden and in active domestic use.



The undated photograph below also shows the area with trampolines, the pump house, and a mown lawn:



Taken together, this photographic record demonstrates uninterrupted residential garden use of the land for well over ten years. The annexed area has been consistently enclosed, maintained, and developed with features associated with domestic enjoyment of the property, thereby confirming its established use as part of the garden.

Legal and Policy Framework

Section 191(1) of the Town and Country Planning Act 1990 allows any person to apply for a determination of whether an existing use of land is lawful. A use is “lawful” if, at the date of the application, it has continued without breach of planning control such that no enforcement action can be taken. Paragraph 191(2) confirms that a use is lawful if no enforcement notice is in force and none could now be issued, for example because ten years have passed since the use began.

In this case, the land has been in established garden use for more than ten years, and the Council has never issued an enforcement notice. Accordingly, under Section 191(2)(a), the use is lawful at the date of application. The burden of proof rests with the applicant, who must demonstrate lawfulness on the balance of probabilities. Appeal decisions repeatedly confirm that the onus of proof lies with the appellant and that the correct standard is the balance of probability. The applicant’s evidence, supported by contemporaneous documents and imagery, clearly meets that standard. Government guidance confirms that without rebuttal evidence there is no good reason to refuse a certificate.

It is also important to stress that this application is not for a change of use or for new development. The test is one of fact and law only, under Section 191. Planning merits or policies relevant to new development do not apply. The legal question is simply whether the garden use has continued uninterrupted for more than ten years. Section 171B(2) of the Act confirms that any breach of

planning control, such as an unauthorised change of use, becomes immune after ten years. Once a Lawful Development Certificate is granted, it certifies that the use was lawful on the application date (Sections 191(2) and 191(4)), and from that point the use is treated as fully lawful for all planning purposes.

Conclusion

It is considered that the submitted evidence constitutes clear, precise, and unambiguous evidence to support this CLEUD application. It is considered that from the evidence submitted, on the balance of probability, land has been used for residential purposes in excess of 10 years. It should be noted that there is no legal requirement to apply for a certificate of lawfulness to establish the extension after the 10 year time limit passes, it crystallises by fact in law after 10 years.

It should also be noted that where CLEUD applications are concerned, the purpose behind consulting third parties is solely to see whether they may have information which might support the application; unlike planning permission, views expressed on the planning merits of the case are irrelevant.

Case law has established that the applicant's own evidence does not need to be corroborated by "independent" evidence to be accepted. If the LPA has no evidence itself, nor 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 CLEUD on the balance of probability. Planning Practice Guidance as issued by DCLG reiterates that this is the approach to be taken by Local Planning Authorities when determining CLEUD applications.

A Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful.

It is considered that the information provided in this statement together with the accompanying application documents contribute sufficient evidence to enable the Council to make a complete and accurate assessment against current planning legislation.

It is considered that the Council can be satisfied that "on the balance of probability," the use is lawful and as such, that the Certificate can be issued accordingly.