

**Report to be read in conjunction with the Decision Notice.**

<b>Signed:</b>	<b>Officer:</b>	MC	<b>Date:</b>	28/04/2026	<b>Manager:</b>	LH	<b>Date:</b>	<b>29/4/26</b>
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<b>Application Ref:</b>	3/2026/0061	 Ribble Valley Borough Council <a href="http://www.ribblevalley.gov.uk">www.ribblevalley.gov.uk</a>
<b>Date Inspected:</b>	N/A	
<b>Officer:</b>	MC	
<b>DELEGATED ITEM FILE REPORT:</b>		<b>REFUSAL</b>

<b>Development Description:</b>	Lawful Development Certificate for existing use as Industrial/Commercial Landscaping Construction Business and associated activities (mixed Use Classes E(g), B2 and B8) including, a) the parking and unloading of plant and machinery and commercial vehicles, b) the storage of materials associated with landscape contracting, c) The storage and maintenance of vehicles, tools, equipment, and ancillary items, d) The administrative functions of the Business, and e) The siting of containers and other buildings/covered areas for general storage purposes. and engineering operations to form concrete and tarmac hardstanding areas across the site and an earth bund.
<b>Site Address/Location:</b>	Lane Ends Farm, Hothersall Lane, Hothersall, PR3 2XB

<b>CONSULTATIONS:</b>	<b>Parish/Town Council</b>
N/A	

<b>CONSULTATIONS:</b>	<b>Highways/Water Authority/Other Bodies</b>
N/A	

<b>CONSULTATIONS:</b>	<b>Additional Representations.</b>
N/A	

<b>RELEVANT POLICIES AND SITE PLANNING HISTORY:</b>
Town and Country Planning Act 1990, Section 171(B); Section 191  National Planning Practice Guidance: Lawful Development Certificates
<b>Relevant Planning History:</b>
<b>3/2025/0381</b> Proposed change of use of existing repair garage (Use Class B2) to incorporate MOT testing use (Sui Generis). Approved with Conditions
<b>3/2007/0022</b> Erection of horticultural polytunnel, 6.4m x 14.63m for protection of shrubs and plants in temporary storage.

Approved with Conditions

**3/1996/0051**

Single storey office building.

Approved with Conditions

**3/1976/1285**

Demolition of buildings. Erection of building for storage of agricultural and horticultural equipment.

Approved with Conditions

**ASSESSMENT OF PROPOSED DEVELOPMENT:**

**Site Description and Surrounding Area:**

The site has a vehicular access off Hothersall Lane and is located approximately 0.6km to the east of the settlement of Longridge, within the Open Countryside. There are residential dwellings located approximately 6 metres from the northern boundary (Bowe Cottage and The Willows) and residential dwellings also located approximately 54 metres to the south of the site (Airey Houses).

The site was previously used by a Landscaping Business and was vacant until recently when the applicant purchased the site and started using part of the site as a repair garage business. Planning permission has been recently approved for the change of use of part of the site to a car repair garage / MOT testing centre (sui generis use) which is currently in operation.

A number of unauthorised works have been undertaken at the site and an enforcement notice has been issued on 30 March 2026 for the following breaches:

- (a) Without planning permission, engineering works to level and regrade the site, infill a pond and create an earth bund, the formation of hardstanding, and the siting of shipping containers.
- (b) Without planning permission, the change of use of land, from land used for storage of material in association with a landscape contractor's yard (B8 use) to land used for storage of materials, waste and paraphernalia in association with a car repair garage and MOT testing centre (Sui Generis use).
- (c) Without planning permission, the change of use of land in the far eastern corner of the site, from land used as agriculture to the siting of shipping containers used for storage purposes and/or the storage of shipping containers (B8 use).

**Proposed Development for which consent is sought:**

This is an application for a Certificate of Lawfulness to regularise the use of the site for the purposes of an Industrial/Commercial Landscaping Contracting Business (Mixed Use Classes E(g)/B2/B8) with associated activities including:

- a) The parking and unloading of plant and machinery and commercial vehicles
- b) The storage of materials associated with landscape contracting
- c) The storage and maintenance of vehicles, tools, equipment, and ancillary items
- d) The administrative functions of the Business, and
- e) The siting of containers and other buildings/covered areas for general storage purposes

In addition, the certificate also includes engineering works to form concrete and tarmac hardstanding areas across the site and an earth bund.

**Submitted Evidence and drawings:**

- Location Plan drawing ref: 001
- Existing Site Plan drawing ref: 002
- Existing Uses Plan drawing ref: 003
- Google Earth Imagery 2015 drawing ref: 005
- Statutory Declaration of former employee dated 16 January 2026
- Statutory Declaration of former owner/operator dated 16 January 2026
- Statutory Declaration of current owner dated 16 January 2026

**Assessment of proposal:**

The lawfulness of the existing use and building operations in question rests upon a detailed assessment of the supporting information provided as part of the application in relation to the provisions of Section 171(B) of the Town and Country Planning Act (1990) (the Act).

Section 171(B) of the Act provides timescales whereby unauthorised development becomes immune from enforcement action and as such becomes lawful as follows:

- (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.

Within the submitted application form, the applicant is claiming that the works or activity began before 25 April 2024 and therefore the transitional measures whereby The Levelling Up and Regeneration Act 2023 (section 115) amended the Town and Country Planning Act 1990 (section 171B) to update the time limits within which local planning authorities can take planning enforcement action against breaches of planning control do not apply.

In this instance, it is the applicant's claim that the use began on 16 August 1972.

Accordingly, the lawfulness of the existing use of the site as a mixed use (Classes E(g)/B2/B8) rests upon a detailed assessment of the supporting information provided as part of the application in relation to the provisions of Section 171(B) (3) of the Town and Country Planning Act (1990) (the Act).

National Planning Practice Guidance 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 counter-evidence.'*

The applicant has also included engineering/building operations within the certificate and as such, these shall be assessed against Section 171(B) (1) of the Town and Country Planning Act (1990) (the Act).

*Use of the site:*

The application is supported by three statutory declarations. Each declaration sets out the main activities of the site and the relevant persons interest/activities. The main activities in relation to the landscaping business which had been in use from 1972 to 2024 included:

- The parking, loading, and unloading of plant and machinery (e.g., excavators, 3- tonne mini-diggers dumpers, tractors) and commercial vehicles (e.g., HGV's (including Arctic's, Flat bed droppers and 7.5t tipper lorries), transit vans, tipper lorries, 4x4's, staff vehicles).
- The storage of materials associated with landscape contracting, including aggregates, soil, sub-soil, sand, spoil, mulch, plants, trees, shrubs, timber, fencing, and bulk bags on the Site.
- The storage and maintenance of vehicles, tools, equipment, and ancillary items necessary for the Business within the workshop on the Site.
- The administrative functions of the Business, including office-based tasks, staff meetings, and client liaison.
- The siting of containers and other buildings/covered areas for general storage purposes on the Site.

It is the view of the Council that the use of the site as a landscaping business / landscaping contractor's yard would fall within the B2 use class and any associated uses such as for storage purposes and the office are an ancillary Class Eg(i) and B8 use to the main use as an existing landscaping business, rather than a mixed use. This will be discussed in detail below.

Drawing ref: 003 shows a breakdown of the uses which the applicant believes are lawful.

Firstly, with regards to the area outlined in orange on drawing ref: 003, the applicant considers that this area was used for the container storage, diesel tanks, waste, equipment storage, loading/unloading of vehicles, parking for vehicles and plant, associated with the Business (Use Class E(g)/B2/B8).

However, the Council's position is that the orange edged area includes land which formed part of the functional planning unit of the landscape business as such this land should be considered lawful B2 use with the exception of the existing access and the areas in front of the existing office and repair garage which now fall within the planning unit of the MOT testing centre (Sui Generis use).

The applicants planning statement states the following:

*"The grant of planning permission for B2 use with MOT testing in 2025 did not create a new planning unit in isolation but formalised an extension of existing commercial activity on land which had already been operating as a contractors' yard for many years. This historic pattern of lawful commercial use is directly relevant when considering whether any material change of use has occurred and whether the Council's allegations properly reflect the lawful baseline of the site."*

The Council disagree with this statement and are of the view that the granting of the MOT testing centre created a separate planning unit as the Mot testing centre granted under planning ref: 3/2025/0381 was not reliant on the whole site to facilitate the use and is a materially different operation. The MOT testing centre is currently in operation, and it is considered that a change of use has occurred from B2 to Sui Generis in part of the area edged orange.

As such, given that the land outlined in orange includes land used to facilitate the MOT testing centre, such as the access and parking/manoeuvring areas, it is not considered that the land edged in orange has been used solely for the suggested uses as Use Class E(g)/B2/B8 for a 10 year period, given that the most recent use of the site is currently operated as Sui Generis and any remaining land falls within the B2 use class .

Drawing ref: 003 states that the workshop building (Building A) is in B2 use class and the office (Building B) is use class E(g). It should be noted that these two buildings are included within the red edge for the certificate of lawfulness but are both considered to be in Sui Generis Use rather than Use Class B2 and Use Class E (g) because they fall within the approved MOT testing planning unit.

Turning to the area highlighted in pink on drawing ref: 003, firstly, it should be noted that Building 'C' which references a polytunnel is no longer on the site. Some of the separated storage areas are still visible on the site and appear to be being used to store highway equipment. The applicant claims that the lawful use of this part of the land is Use Class E(g)/B8 and has been used as a designated area for the storage of aggregates, sand, top-soil, spoil, mulch, plants, tree, shrubs, timber, fencing and bulk bags etc with other lean-to buildings or other covered areas and is confirmed within the statutory declarations. When viewing google satellite imagery, over a ten year period, this piece of land highlighted in pink appears to have been partially used for the purposes of storage, which could include plants, trees and shrubs as there are areas of the land which appear to be vegetated. However, these uses are considered to be ancillary uses to the main landscaping business and therefore fall within the main B2 use class, rather than a separate Eg or B8 use.

Drawing ref: 003 also shows an area of land shaded in yellow, which the applicant claims is a designated area for the storage of soil and spoil for both the original business and the current business (Use Class B8). The Council disagree that this part of the site formed part of the planning unit of the previous landscaping business use. Having reviewed the previous google satellite imagery there is no evidence that this land has been used as storage.

#### *Building operations:*

The submitted plan showing the existing uses of the site (including hardstanding and engineering operations) as outlined on drawing ref: 003 suggests that the area outlined in blue includes areas of hardstanding which is considered to be lawful.

Much of the area outlined in blue includes hardstanding which when compared to aerial photographs does show that historically, parts of the site have been hard surfaced. However, it is not considered that all of the land outlined in blue under drawing ref: 003 comprises hardstanding as suggested within the plan. For example, google satellite imagery clearly shows the area shaded in pink as vegetated with trees/shrubs in June 2023. In addition, there are elements of the site located centrally where 'Building D' is shown on drawing ref: 003, where trees/vegetation are clearly visible in June 2023 on satellite imagery.

As such, it is not considered that on the balance of probabilities, the hardstanding in the area outlined in blue is lawful for the purposes of this assessment.

Turning to the engineering operations in relation to the earth bund, the supporting statement indicates that this has been created over time to screen the site from nearby residential properties. The earth bund is identified as the land shaded purple on drawing ref: 003 and appears to extend to the south-eastern corner and curve back eastwards. However, having reviewed the latest satellite imagery and upon visiting the site for a recent pre-application enquiry, it is clear that the bund has been extended southwards since 2023 and in particular, the eastern corner between June to September 2025.

As such, it is not considered that the engineering operations to facilitate hardstanding within the site and the earth bund are lawful by virtue of Section 171(B) (1) of the Town and Country Planning Act (1990) (the Act).

**Observations/Consideration of Matters Raised/Conclusion:**

Evidence has been provided in support of the application in an attempt to demonstrate that the buildings and land subject to this application have been constructed and continuously used for a period in excess of four and ten years respectively.

As confirmed in the National Planning Practise Guidance, the onus is on the applicant to demonstrate that the building and land has been continuously used for the stated uses for a period of at least ten years and that the building operations/engineering works have been substantially completed for a period of four years. The applicant's evidence must be sufficiently precise and unambiguous even in the absence of any contradictory evidence.

On the basis of the available evidence and the balance of probabilities, it is not considered that the lawful use of the land edged red on drawing ref: 001 is a mixed use Classes Eg, B2 and B8 nor are the building operations/engineering operations (namely hardstanding and earth bund) lawful.

As such, the development is not considered lawful by virtue of Section 191 of the Town and Country Planning Act 1990.

<b>RECOMMENDATION:</b>	That the certificate of lawfulness be refused for the following reasons:
<b>01:</b>	The applicant has failed to demonstrate that, on the balance of probability, the buildings and land to which the application relates (Lane Ends Farm) has been used for mixed use Class Eg, B2 and B8 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.
<b>02:</b>	The applicant has failed to demonstrate that, on the balance of probability, the engineering operations to form concrete and tarmac hardstanding areas and an earth bund within the site (Lane Ends Farm) has been in situ for a continuous period in excess of 4 years, and therefore the development is not considered lawful by virtue of Section 191 of the Town and Country Planning Act 1990.