

Report to be read in conjunction with the Decision Notice.								
Signed:	Officer:	LW	Date:	23/7/26	Manager:	LH	Date:	23/7/26

Application Ref:		3/2026/0429		 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	N/A	Site Notice:	N/A	
Officer:	LW			
DELEGATED ITEM FILE REPORT:				APPROVAL

Development Description:	Certificate of Lawfulness for existing use of land as garden area.
Site Address/Location:	The Croft, Long Row, Mellor, BB2 7EE.

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: 3/2011/0867: Substitution of house type approved under application 3/2009/0306P including erection of detached garage and amendments to access track approved under application 3/2007/0287 (Approved). 3/2009/0240: Application for discharge of conditions no.2 (relating to materials used), no.4 (relating to landscaping of the site) and no.5 (relating to details of the proposed floor levels), of planning consent 3/2008/0853P (Approved). 3/2008/0853: Demolition of existing property and re-building a two-bedroom dwelling (resubmission) (Approved). 3/2008/0211: Demolition of existing property and rebuilding a new two storey dwelling (Withdrawn). 3/2007/0287: Laying out of access track between Homestead 1 and Long Row, including engineering operations (Approved).

ASSESSMENT OF PROPOSED DEVELOPMENT:
Site Description and Surrounding Area:

The application relates to The Croft, a residential dwelling accessed off Long Row, Mellor. The site is located outside of any defined settlement boundary and on land which benefits from a Green Belt designation.

Proposed Development for which consent is sought:

In 2008, planning consent was granted under application reference 3/2008/0853 for the demolition of an existing residential property known as Homestead and the construction of a replacement two-bedroom dwellinghouse, now known as The Croft. Access to the replacement dwelling was proposed via a new access track off Long Row which had previously been granted consent under application 3/2007/0287. Following this, in 2012 consent was granted for a substitution of house type and amendments to the access track under application 3/2011/0867.

The plans approved under application 3/2008/0853 show the access track and land to the north of the replacement dwelling to fall outside of the property's residential curtilage, with the red edge boundary including the land immediately surrounding the dwelling only. To provide further clarity, when 3/2011/0867 was approved, a condition was attached to the decision notice stating that the *'approval does not allow the use of the land north of the existing residential curtilage of Homestead, that includes the access track, to be used for residential purposes'*. The reason for this condition was *'for the avoidance of doubt since the originally approved access track was the subject of agreed amendments, and that the Local Planning Authority does not accept claims that the land in question has a residential use'*.

However, this application seeks to establish the lawful use of the area of land to the north of The Croft as domestic curtilage in association with the residential property, 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 that 'on the balance of probability', 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 that applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.'

Other Matters:

The principal issue is whether there is sufficient evidence to demonstrate that the land subject to this application has been in continuous use of as domestic curtilage for a period exceeding ten years prior to the date of this application, having regard to the provisions of Section 171(B) of the Town and Country Planning Act 1990.

Section 171(B) sets out the time limits after which unauthorised development becomes immune from enforcement action and, therefore, lawful. In relation to a material change of use, Section 171(B) states:

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 applicant claims that the application land has been used as domestic curtilage, including as garden land and for access purposes, since 2013, when it was purchased alongside the site benefitting from planning permission for a replacement dwelling, now known The Croft.

In support of the application, the applicant has submitted an aerial photograph dated April 2015 and a signed declaration from a neighbouring resident. The declaration confirms that, to the best of the declarant's knowledge, the land has formed part of the residential garden associated with The Croft for at least 13 years. During this period, the neighbour states that they have observed the land being maintained and used for domestic purposes, including general garden maintenance and other household-related activities. A topographical survey dated March 2022 has also been provided, showing The Croft and the application land as a single integrated area.

In addition, the Local Planning Authority has reviewed historic Google Earth imagery. This indicates that the application land has not been physically separated from the residential curtilage of The Croft by any form of internal boundary treatment and is enclosed to the north, east and west by fencing and vegetation. The imagery further shows that the land has been regularly maintained since at least 2015. Between 2015 and 2018, a shed and associated hardstanding were introduced within the western part of the site. The imagery also evidences landscaping works and the presence of domestic paraphernalia consistent with residential garden use. More recent imagery shows the installation of an access gate.

Having regards to the submitted evidence, the historic aerial imagery, and the physical and functional relationship between the application land and The Croft, there is no substantive evidence to suggest that the land has not been used for any purpose other than as residential garden land. On the balance of probabilities, it is therefore considered that the land has been used continuously as domestic curtilage associated with The Croft for a period in excess of ten years and is consequently immune from enforcement action under Section 171(B) of the Town and Country Planning Act 1990.

Observations/Consideration of Matters Raised/Conclusion:

Having regard to the available evidence, and in the absence of any evidence to the contrary, it is considered on the balance of probabilities that the application land has formed part of the residential curtilage of The Croft continuously for a period exceeding ten years. The use has therefore become immune from enforcement action and is lawful under the provisions of Section 171B of the Town and Country Planning Act 1990.

RECOMMENDATION:	That the Certificate of Lawfulness be granted.
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