

PLANNING STATEMENT

**CERTIFICATE OF LAWFULNESS
FOR OPERATIONAL
DEVELOPMENT COMPRISING
THE ERECTION OF FOUR FIELD
SHELTERS FOR AN
EQUESTRIAN USE**

AT

**WINNOWING BARN
ORTON-ON-THE-HILL
WARWICKSHIRE
CV9 3NN**

**SWORDERS
MAY 2024**



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1.0 INTRODUCTION

- 1.1 This Planning Statement has been prepared on behalf of Melanie and Chris Cook (hereafter referred to as the 'Applicants') in support of a 'Certificate of Lawfulness Application for operational development comprising the erection of four field shelters for an equestrian use' at Wincow Barn, Orton-On-The-Hill, Warwickshire, CV9 3NN.
- 1.2 The application site is located to rear of the dwelling known as 'Wincow Barn' located toward the Southern end of Orton-On-The-Hill. The site comprises the four field shelters subject to this Certificate of Lawfulness Application in addition to a caravan used in association with the equestrian use, a stable building, menage and land used for the keeping of horses. Location Plan 223564-PL-001 identifies the general location of the site.
- 1.3 Each of the above field shelters are as identified on 223564-PL-001 and 223564-PL-002 by the red edged areas and building notations. Each operational development comprising the erection of the buildings subject to this application has exceeded the relevant 4-year time limit for immunity from enforcement action.

2.0 PLANNING HISTORY

- 2.1 The relevant planning history is summarised in the table below:



Application Reference	Proposal	Decision and Date
04/01104/FUL	ERECTION OF PRIVATE STABLES AND HAY STORE	Thu 06 Jan 2005 – Refused and Appeal Dismissed
04/00225/FUL	STABLE BLOCK AND TACK ROOM	Mon 14 Jun 2004 - Withdrawn
06/00447/FUL	ERECTION OF 4 NO. STABLES AND HAY STORE	Thu 14 Sep 2006 - Granted
12/00988/FUL	CHANGE OF USE OF LAND FROM AGRICULTURAL TO EQUESTRIAN USE AND FORMATION OF MENAGE	Wed 09 Jan 2013 - Withdrawn
13/00030/FUL	Change of use of land from agricultural to equestrian use and the formation of a menage	Thu 07 Mar 2013 - Granted
16/00211/FUL	Erection of agricultural storage and livestock building	Mon 18 Apr 2016 - Refused

3.0 NATIONAL PLANNING LEGISLATION AND GUIDANCE

3.1 Sections 191-193 of the Town and Country Planning Act 1990 provide the statutory framework for the application and determination of lawful development certificates.



3.2 Section 171B of the 1990 Act establishes that a breach of planning control obtains an immunity by the passage of time when it becomes “lawful” for planning purposes. With respect to operational development comprising the erection of buildings, Section 171B(1) sets out that *“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—*

[F2(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”.

3.3 It should be noted however that the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 sets out a transitional provision for time limits for enforcement. Part 3 Section 4 states that *“The amendments made to the 1990 Act by section 115 of the 2023 Act (time limits for enforcement) **do not apply where—***

(a) in respect of a breach of planning control referred to in section 171B(1) of the 1990 Act (5) (time limits), the operations were substantially completed, or

(b) in respect of a breach of planning control referred to in section 171B(2) of the 1990 Act (time limits), the breach occurred,

before the day on which that section comes into force.” [emphasis added].

3.4 As the operational development described in this application was substantially completed before 25 July 2024 the amendments made by section 115 of the 2023 Act do not apply. As such the previous version of Section 171B(1) of the 1990 Act dated 02 October 2013 should apply. This states that *“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.**”* [emphasis added].



- 3.5 Taking into account the above, the relevant time period for immunity is 4 years. However, for the avoidance of any doubt the application presents 10 years of evidence beginning with the date on which the operations were substantially completed for each field shelter.
- 3.6 Section 191(5) of the 1990 Act states that “A certificate under this section shall—
- (a) specify the land to which it relates;*
 - (b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);*
 - (c) give the reasons for determining the use, operations or other matter to be lawful; and*
 - (d) specify the date of the application for the certificate.”*
- 3.7 The National Planning Practice Guidance (NPPG) provides guidance on determination of lawful development certificates at Paragraph: 006 Reference ID: 17c-006-20140306 as follows: “*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.*”
- 3.8 The National Planning Practice Guidance (NPPG) provides guidance on enforcement notices at Paragraph: 018 Reference ID: 17b-018-20140306 as follows: “*An enforcement notice should only be issued where the local planning authority is satisfied that it appears to them that there has been a breach of planning control and it is expedient to issue a notice, taking into account the provisions of the development plan and any other material considerations.*”

4.0 EVIDENCE

GENERAL



- 4.1 Appendix 1 contains an email from Matthew Pike the Managing Director at Jon Williams Stables which confirms that Mr. and Mrs. Cook at the Winnowing Barn purchased a total of four Mobile Field Shelters from JWS between 2008 and 2012. These four Mobile Field Shelters have been on site at the Winnowing Barn since they were first erected by JWS between 2008 and 2012.
- 4.2 Appendices 2 and 3 contain the Statutory Declarations of Alan Christopher Cook and Melanie Cook (the Applicants). The Statutory Declarations set out that the Applicants moved to The Winnowing Barn, Main Street, Orton on the Hill, Nr Atherstone, Warwickshire CV9 3NN in November 2002 and have kept horses on the land since this date to the date of this application. They go onto to corroborate that the field shelters were purchased from Jon Williams Stables between 2008 and 2012.
- 4.3 Appendix 19 contains the Signed Statement of Adam Davies who worked as the Applicants farrier between 2007 and 2019. It confirms that Adam Davies has worked in all of the field shelters subject to this application and that to the best of his knowledge they have all been on site for at least 10 years from the date of the statement on 03 May 2024.
- 4.4 Appendix 20 contains the Signed Statement of Charlie Wykes who has supplied hay and straw to the Applicants for more than 10 years. It confirms that they visit the site weekly or every two weeks to supply hay and straw which is used as food and bedding in the field shelters and that to the best of their knowledge, the field shelters have all been on site for at least 10 years from the date of the statement on 04 May 2024 and are still in place.
- 4.5 Appendix 21 contains the Signed Statement of Jonathan Dodds, the former Stud Manager at Louella Stud. It confirms that they visited the site between 2006 and 2019 to view the newly born foals and that the broodmares had been foaled in the field shelters. The statement adds that the field shelters have all been on site for at least 10 years from the date of the statement on 09 May 2024.



- 4.6 Appendix 22 contains the Signed Statement of Gil Riley, a partner at Pool House Equine Hospital from 2000 to 2022. It confirms that they visited the site on a number of occasions over this period and that the field shelters have all been on site for at least 10 years. It adds that the field shelters were in full use housing the stock and also doubling up as an area to perform clinical examinations.
- 4.7 The following sections to this Planning Statement detail the date at which operations were substantially completed for each of the four field shelters and their subsequent use to the date of this application.

FIELD SHELTER NO 1

- 4.8 Field Shelter No 1 comprises of an equestrian field shelter (Ideal Range 3.6m x 5.4m Mobile Field Shelter) used for the shelter, feeding and foaling of horses. As detailed in Appendix 2 and 3, the building was purchased from Jon Williams Stables in 2010 and subsequently erected in 2010 alongside, and to the North, of Field Shelter No 2. The building was subsequently moved to its current position in 2014 at which point the operations were substantially completed. Since 2014 the field shelter has not moved, no further operational development has been undertaken and there have been no breaks in the equestrian use. The relevant date for immunity from enforcement action is therefore 2018. The precise date for the works being substantially completed is not known, as this is the last operational development within this application the date when the building works were substantially completed is listed on the Application Forms is 01 January 2014.
- 4.9 Satellite imagery (below) from Google Earth shows Field Shelter No 1 in its original location to the North of Field Shelter No 2 dated 01 January 2010 and 27 September 2011.



Satellite Imagery Dated 01 January 2010 (Source: Google Earth)



Satellite Imagery Dated 27 September 2011 (Source: Google Earth)



- 4.10 Field Shelter No 1 can be identified in its original location on the Location Plan and Site Plan submitted pursuant to Local Authority reference 11/00412/CON at 10 Main Street dated 11 May 2011 and 12 May 2011 contained at Appendix 4 and 5 respectively.
- 4.11 Appendices 6 and 7 contain the Rightmove listing for the neighbouring dwelling '10, Main Street, Orton On The Hill, Atherstone, Leicestershire CV9 3NN' and listing photographs dated August 2011 in which Field Shelter No 1 can be seen in its original location.
- 4.12 Field Shelter No 1 can be identified in its original location on the Rural Land Register (RLR) Map dated 27 October 2011 contained at Appendix 8.
- 4.13 Field Shelter No 1 can be identified in its original location on the Location Plan submitted pursuant to Local Authority reference 12/00644/HOU at 12 Main Street dated July 2012 contained at Appendix 9.
- 4.14 Field Shelter No 1 is referenced as being on site within the Case Officers Report to Local Planning Authority reference 13/00030/FUL dated 07 March 2013 contained at Appendix 10. It states that *"The land is currently in an agricultural use, despite the location of stables (already consented) within it and **other associated shelters** and structures and seeks to be converted to an equestrian use."* [emphasis added]. Shelters (plural) must refer to Field Shelters Nos 1 and 2 as these were the only field shelters located within the redline site area pursuant to Local Planning Authority reference 13/00030/FUL.
- 4.15 Satellite imagery (see below) shows Field Shelter No 1 in its present location from 21 April 2015 and subsequently on 20 April 2016, 05 April 2018, 21 April 2020, 16 June 2021 and 20 January 2022.



Satellite Imagery Dated 21 April 2015 (Source: Google Earth)



Satellite Imagery Dated 20 April 2016 (Source: Google Earth)



Satellite Imagery Dated 05 April 2018 (Source: Google Earth)



Satellite Imagery Dated 21 April 2020 (Source: Google Earth)



Satellite Imagery Dated 16 June 2021 (Source: Google Earth)



Satellite Imagery Dated 20 January 2022 (Source: Google Earth)



- 4.16 As detailed within the Statutory Declarations at Appendices 2 and 3, Field Shelter No 1 was moved to its current location in 2014.
- 4.17 Field Shelter No 1 can be identified in its current location on the Block Plan submitted pursuant to Local Planning Authority reference 16/00211/FUL dated 07 March 2016 contained at Appendix 11.
- 4.18 Field Shelter No 1 is referenced as being on site in the Case Officers Report to Local Planning Authority reference 16/00211/FUL dated 18 April 2016 contained at Appendix 12. It states that “A neighbouring resident has objected to the proposal on the following grounds:
- d) It was noted in the case officers report for planning application no. 13/00030/FUL that there **were still a number of shelters and structures associated with the equestrian use on the land.** Either the original condition has not been complied with or new buildings have replaced those referred to in the original planning condition. This proliferation of temporary structures is clearly contrary to the objectives of the planning permission and harmful to the overall character of the area.” [emphasis added].*
- 4.19 Field Shelter No 1 can be identified in its current location on the Draft Layout for an unsubmitted planning application for an Agricultural Barn dated 08 March 2017 contained at Appendix 13.
- 4.20 Appendix 14 contains an aerial photograph dated between 2017 and 2018 (as confirmed by the Statutory Declarations at Appendix 2 and 3) of the site showing Field Shelter No 1 in its current location.
- 4.21 Taking into account all of the above, it is clear that, on the balance of probabilities, Field Shelter No 1 was erected in its current location more than 4 years ago and has thus exceeded the relevant time period for immunity from enforcement action.

FIELD SHELTER NO 2

4.22 Field Shelter No 2 comprises of an equestrian field shelter (Ideal Range 3.6m x 5.4m Mobile Field Shelter) used for the shelter, feeding and foaling of horses. As detailed in Appendix 2 and 3, the building was purchased from Jon Williams Stables in 2008 and subsequently erected in 2008 at which point the operations were substantially completed. Since 2008 the field shelter has not moved, no further operational development has been undertaken and there have been no breaks in the equestrian use. The relevant date for immunity from enforcement action is therefore 2012.

4.23 Satellite imagery (see below) shows Field Shelter No 2 in its present location from 01 January 2010 and subsequently on 27 September 2011, 21 April 2015, 20 April 2016, 05 April 2018, 21 April 2020, 16 June 2021 and 20 January 2022.



Satellite Imagery Dated 01 January 2010 (Source: Google Earth)



Satellite Imagery Dated 27 September 2011 (Source: Google Earth)



Satellite Imagery Dated 21 April 2015 (Source: Google Earth)



Satellite Imagery Dated 20 April 2016 (Source: Google Earth)



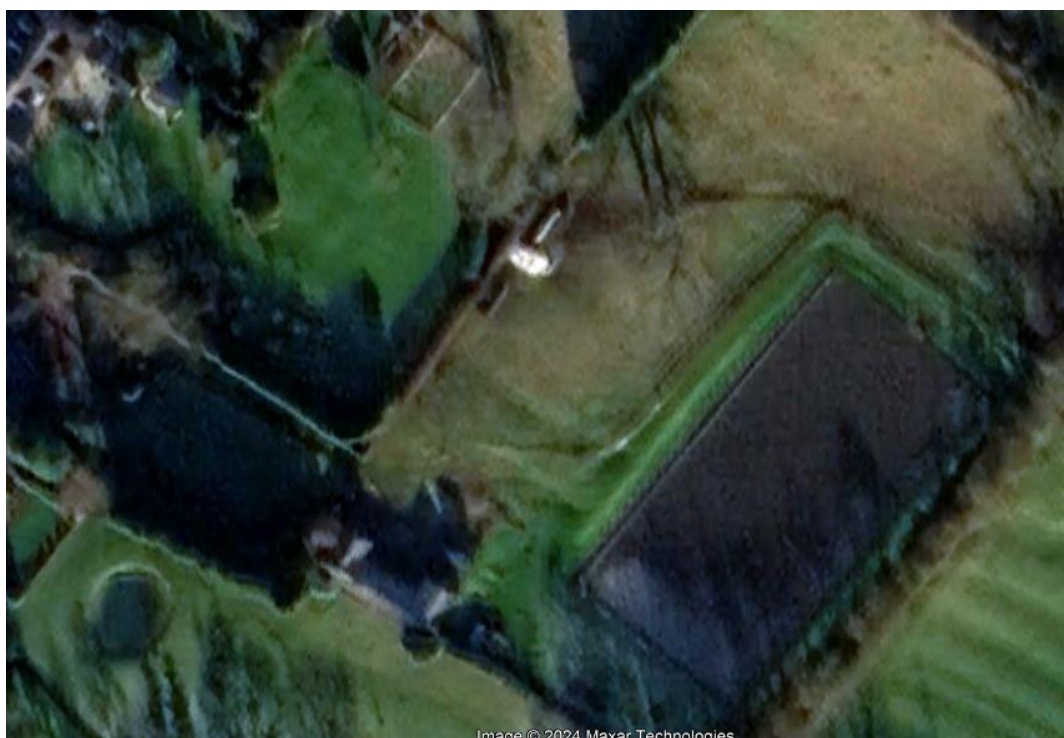
Satellite Imagery Dated 05 April 2018 (Source: Google Earth)



Satellite Imagery Dated 21 April 2020 (Source: Google Earth)



Satellite Imagery Dated 16 June 2021 (Source: Google Earth)



Satellite Imagery Dated 20 January 2022 (Source: Google Earth)

- 4.24 As detailed within the Statutory Declarations at Appendix 2 and 3, the upper half of the inside of Field Shelter No 2 was painted white in 2009 as the Applicants used this shelter to foal the mares and this increased the light inside the shelter.
- 4.25 Field Shelter No 2 can be identified in its current location on the Location Plan and Site Plan submitted pursuant to Local Authority reference 11/00412/CON at 10 Main Street dated 11 May 2011 and 12 May 2011 contained at Appendix 4 and 5.
- 4.26 Appendix 6 and 7 contain the Rightmove listing for the neighbouring dwelling '10, Main Street, Orton On The Hill, Atherstone, Leicestershire CV9 3NN' and listing photographs dated August 2011 in which Field Shelter No 2 can be seen in its current location.
- 4.27 Field Shelter No 2 can be identified in its current location on the Rural Land Register (RLR) Map dated 27 October 2011 contained at Appendix 8.



- 4.28 Field Shelter No 2 can be identified in its current location on the Location Plan submitted pursuant to Local Authority reference 12/00644/HOU at 12 Main Street dated July 2012 contained at Appendix 9.
- 4.29 Appendix 15 contains a photograph posted on Facebook by Elizabeth Susan Mills (the Applicants daughter) of the Mare Ella and her Eventing Foal, MC Parco Pete, who was born in Field Shelter No 2 (Note the top half painted white as per the above) dated 27 April 2013. This is confirmed by the Statutory Declarations at Appendix 2, 3 and 16.
- 4.30 Field Shelter No 2 can be identified in its current location on the Block Plan submitted pursuant to Local Planning Authority reference 16/00211/FUL dated 07 March 2016 contained at Appendix 11.
- 4.31 Field Shelter No 2 can be identified in its current location on the Draft Layout for an unsubmitted planning application for an Agricultural Barn dated 08 March 2017 contained at Appendix 13.
- 4.32 Appendix 14 contains an aerial photograph dated between 2017 and 2018 (as confirmed by the Statutory Declarations at Appendix 2 and 3) of the site showing Field Shelter No 2 in its current location.
- 4.33 Taking into account all of the above, it is clear that, on the balance of probabilities, Field Shelter No 2 was erected in its current location more than 4 years ago and has thus exceeded the relevant time period for immunity from enforcement action.

FIELD SHELTER NO 3

- 4.34 Field Shelter No 3 comprises of an equestrian field shelter (Ideal Range 3.6m x 5.4m Mobile Field Shelter) used for the shelter, feeding and foaling of horses. As detailed in Appendix 2 and 3, the building was purchased from Jon Williams Stables in 2009 and subsequently erected in 2009 at which point the operations were substantially completed. Since 2009 the field shelter has not moved, no further operational development has been undertaken and there have been no breaks in the equestrian use. The relevant date for immunity from enforcement action is therefore 2013.

4.35 Satellite imagery (see below) shows Field Shelter No 3 in its present location from 01 January 2010 and subsequently on 27 September 2011, 21 April 2015, 20 April 2016, 05 April 2018, 21 April 2020, 16 June 2021 and 20 January 2022.



Satellite Imagery Dated 01 January 2010 (Source: Google Earth)



Satellite Imagery Dated 27 September 2011 (Source: Google Earth)



Satellite Imagery Dated 21 April 2015 (Source: Google Earth)



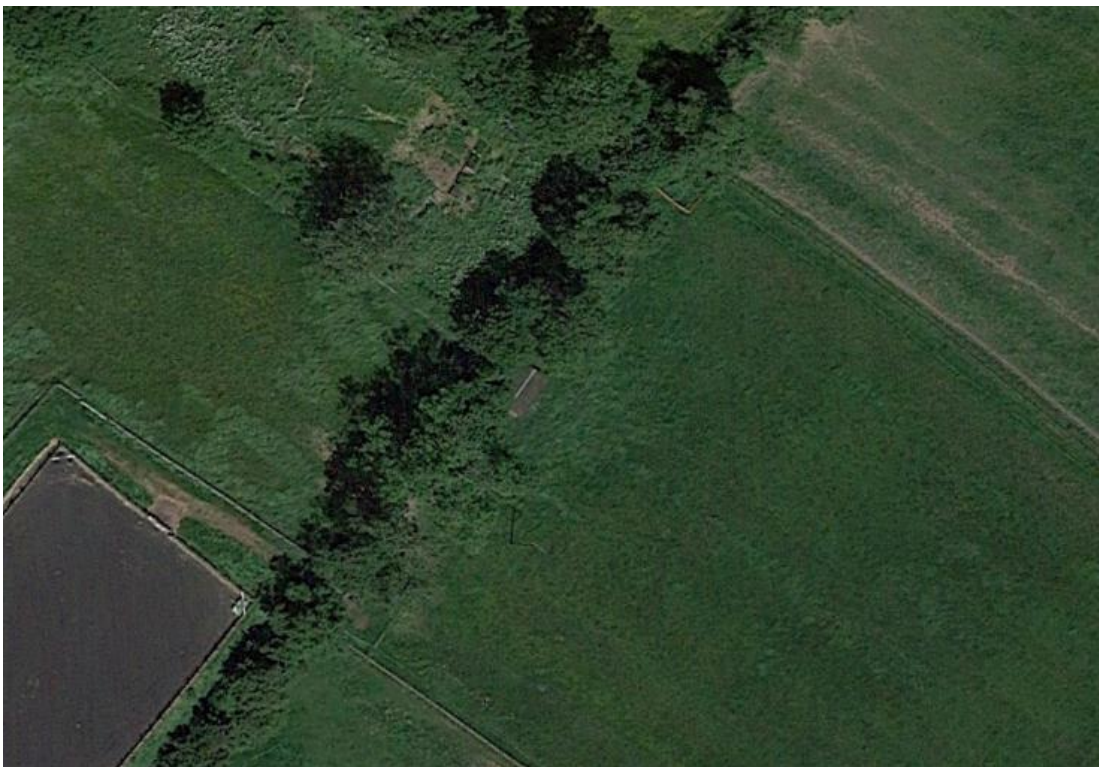
Satellite Imagery Dated 20 April 2016 (Source: Google Earth)



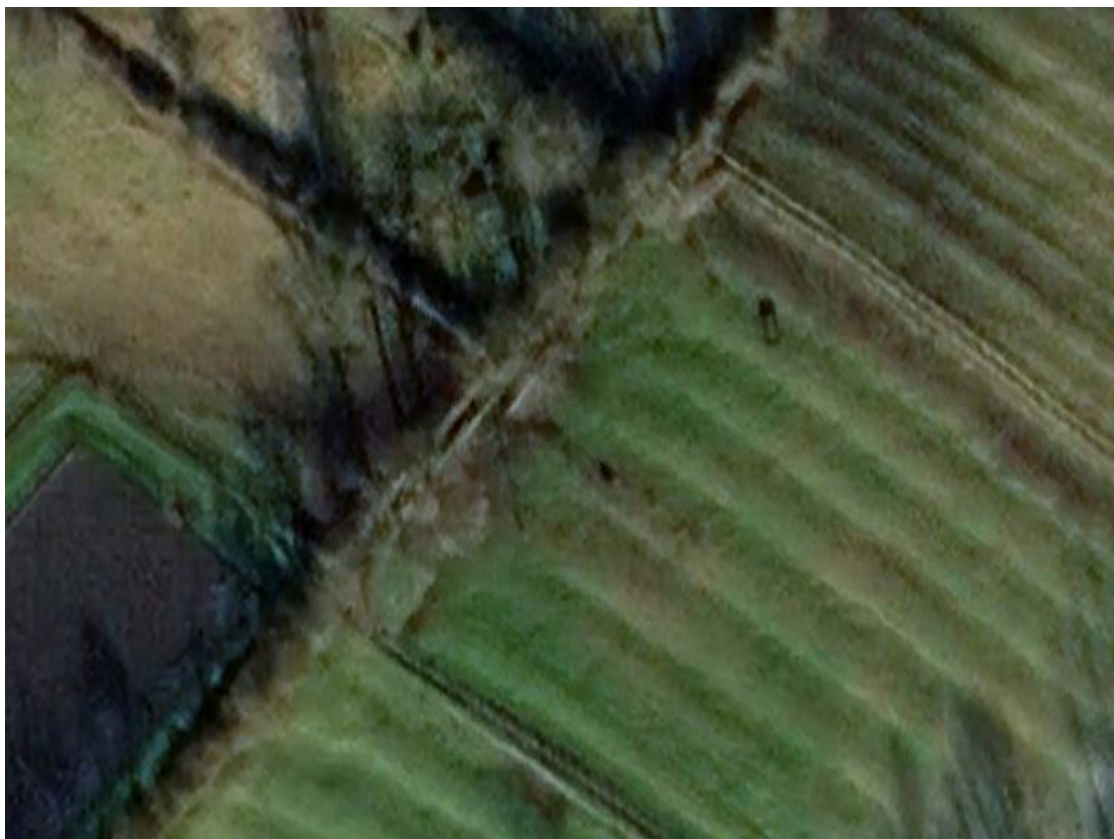
Satellite Imagery Dated 05 April 2018 (Source: Google Earth)



Satellite Imagery Dated 21 April 2020 (Source: Google Earth)



Satellite Imagery Dated 16 June 2021 (Source: Google Earth)



Satellite Imagery Dated 20 January 2022 (Source: Google Earth)

- 4.36 Field Shelter No 3 can be identified in its current location on the Draft Layout and Location Plan for an unsubmitted planning application for an Agricultural Barn dated 08 March 2017 and 27 March 2017 contained at Appendix 13 and 17 respectively.
- 4.37 Appendix 14 contains an aerial photograph dated between 2017 and 2018 (as confirmed by the Statutory Declarations at Appendix 2 and 3) of the site showing Field Shelter No 3 in its current location.
- 4.38 Taking into account all of the above, it is clear that, on the balance of probabilities, Field Shelter No 3 was erected in its current location more than 4 years ago and has thus exceeded the relevant time period for immunity from enforcement action.

FIELD SHELTER NO 4

4.39 Field Shelter No 4 comprises of an equestrian field shelter (Ideal Range 3.6m x 5.4m Mobile Field Shelter) used for the shelter, feeding and foaling of horses. As detailed in Appendix 2 and 3, the building was purchased from Jon Williams Stables on 10 October 2012. The building was subsequently erected in 2012 at which point the operations were substantially completed. Since 2012 the field shelter has not moved, no further operational development has been undertaken and there have been no breaks in the equestrian use. The relevant date for immunity from enforcement action is therefore 2016.

4.40 Satellite imagery (see below) shows Field Shelter No 4 in its present location from 21 April 2015 and subsequently on 20 April 2016, 05 April 2018, 21 April 2020, 16 June 2021 and 20 January 2022.



Satellite Imagery Dated 21 April 2015 (Source: Google Earth)



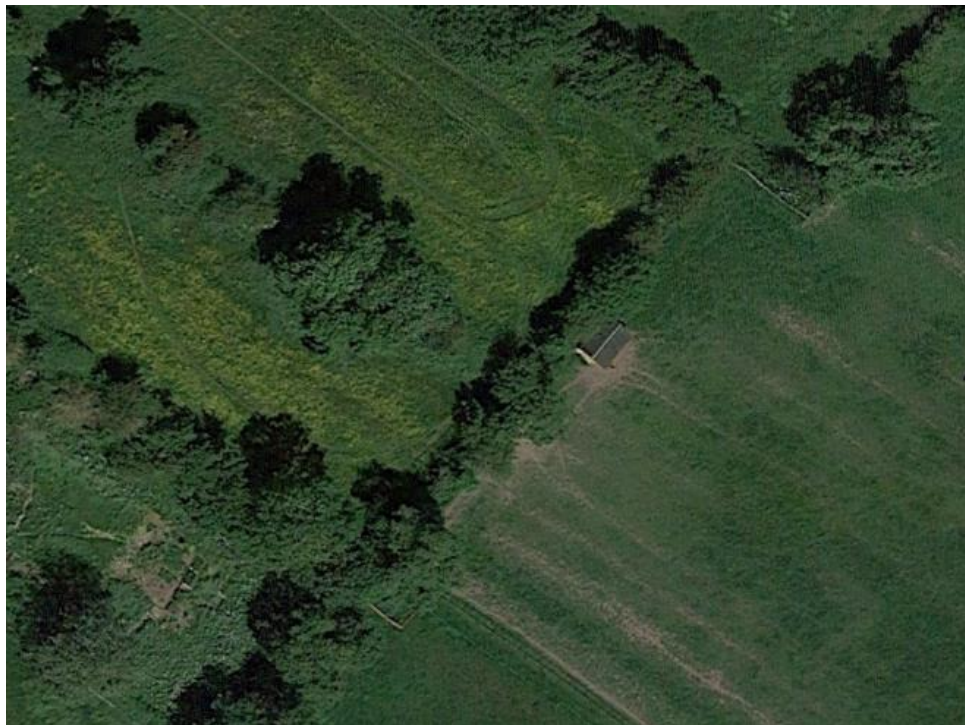
Satellite Imagery Dated 20 April 2016 (Source: Google Earth)



Satellite Imagery Dated 05 April 2018 (Source: Google Earth)



Satellite Imagery Dated 21 April 2020 (Source: Google Earth)



Satellite Imagery Dated 16 June 2021 (Source: Google Earth)



Satellite Imagery Dated 20 January 2022 (Source: Google Earth)

- 4.41 Appendix 17 contains an invoice from Jon Williams Stables for the purchase of Field Shelter No 4 (one Ideal Range 3.6m x 5.4m Mobile Field Shelter) addressed to Mrs. Melanie Cook, Winnowing Barn, Main Street, Orton the Hill, Warks, CV9 3NN dated 10 October 2012.
- 4.42 Field Shelter No 4 can be identified in its current location on the Draft Layout and Location Plan for an unsubmitted planning application for an Agricultural Barn dated 08 March 2017 and 27 March 2017 contained at Appendix 13 and 18 respectively.
- 4.43 Taking into account all of the above, it is clear that, on the balance of probabilities, Field Shelter No 3 was erected in its current location more than 4 years ago and has thus exceeded the relevant time period for immunity from enforcement action.

5.0 CONCLUSIONS



- 5.1 This application seeks a Certificate of Lawfulness under Section 191 of the Town and County Planning Act 1990 (as amended) for the operational development comprising the erection of four field shelters for an equestrian use' at Winnowing Barn, Orton-On-The-Hill, Warwickshire, CV9 3NN.
- 5.2 The relevant time period for immunity from enforcement action for operational development in line with the transitional provisions set out in the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 is 4 years.
- 5.3 Field Shelters Nos 1, 2, 3 and 4 where erected in the current locations in 2014, 2008, 2009 and 2012 respectively therefore the relevant dates for immunity from enforcement action are 2018, 2012, 2013 and 2016 respectively.
- 5.4 The evidence submitted includes Statutory Declarations, Signed Statements, invoices, satellite imagery, dated and aerial photographs, Case Officers Reports, planning application plans and RLR Maps which confirm that each of the Field Shelters were erected in their current locations more than 4 years ago and thus have exceeded the relevant time limits for enforcement action.
- 5.5 The Applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. The Local Authority are hereby requested to grant this Certificate of Lawfulness.