

Delegated Decision Report

Application No:	25/0837	Statutory Period Expires:	19th January 2026
Site:	<i>New Holdings Chapel Lane Llandeud Newport NP18 2AF</i>		
Proposal:	<i>LAWFUL DEVELOPMENT CERTIFICATE (EXISTING) FOR EQUESTRIAN USE INCLUDING SITING OF RIDING/TRAINING AREA AND STABLE</i>		
Applicant:	<i>T. Reece</i>		
Type:	Lawful Development Existing	Ward:	Bishton And Langstone
Decision:	Refused		

1. BACKGROUND

- 1.1 The applicant is seeking confirmation that an area of land at New Holding, Llandeud has been in use for equestrian purposes for a continuous period exceeding 10 years prior to the date of the application (03.10.2025). The uses claimed are training / exercise area and stable building.
- 1.2 Section 191 of the Town & Country Planning Act (as amended) allows any person to test whether any existing use of buildings or other land is lawful in planning terms by submission of an application for a certificate of lawfulness. The Section further clarifies that:

(2) For the purposes of this 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.
- 1.3 Section 171B(3) of the TCPA as amended sets out a period of 10 years beginning with the date of the breach as the time period when a breach becomes immune from enforcement action when that breach does not involve operational development. Otherwise the immunity period is generally 4 years.
- 1.4 Welsh Office Circular 24/97 (Enforcing Planning Control) offers advice on the Lawful Development Certificate (LDC) at Annex 08 with these sections being the most pertinent:

The onus of proof in an application

8.12 The onus of proof in a LDC application is firmly on the applicant. While the LPA should always co-operate with an applicant seeking information they may hold about the planning status of land, by making records readily available, they need not go to great lengths to show that the use, operations, or failure to comply with a condition, specified in the application, is, or is not, lawful. While LPAs are statutorily required to maintain the planning register, this is not a complete record of the planning status of all land in their area. In many cases, the applicant for a certificate will be best placed to produce information about the present, and any previous, activities taking place on the land, including a copy of any planning permission he may hold. Some information, especially about the history of any unauthorised activity on the land, will be peculiarly within the applicant's knowledge. The fact that a LDC may be refused because the onus of proof is not discharged by the applicant does not preclude the submission of a further application if better evidence is subsequently available. A refusal to issue a LDC is therefore not necessarily conclusive that something is not lawful: it may merely mean that, so far, insufficient evidence has been presented to satisfy the LPA that the use, operation or activity is lawful. For this reason, it is pointless for third parties to pursue objections to activities by making LDC applications

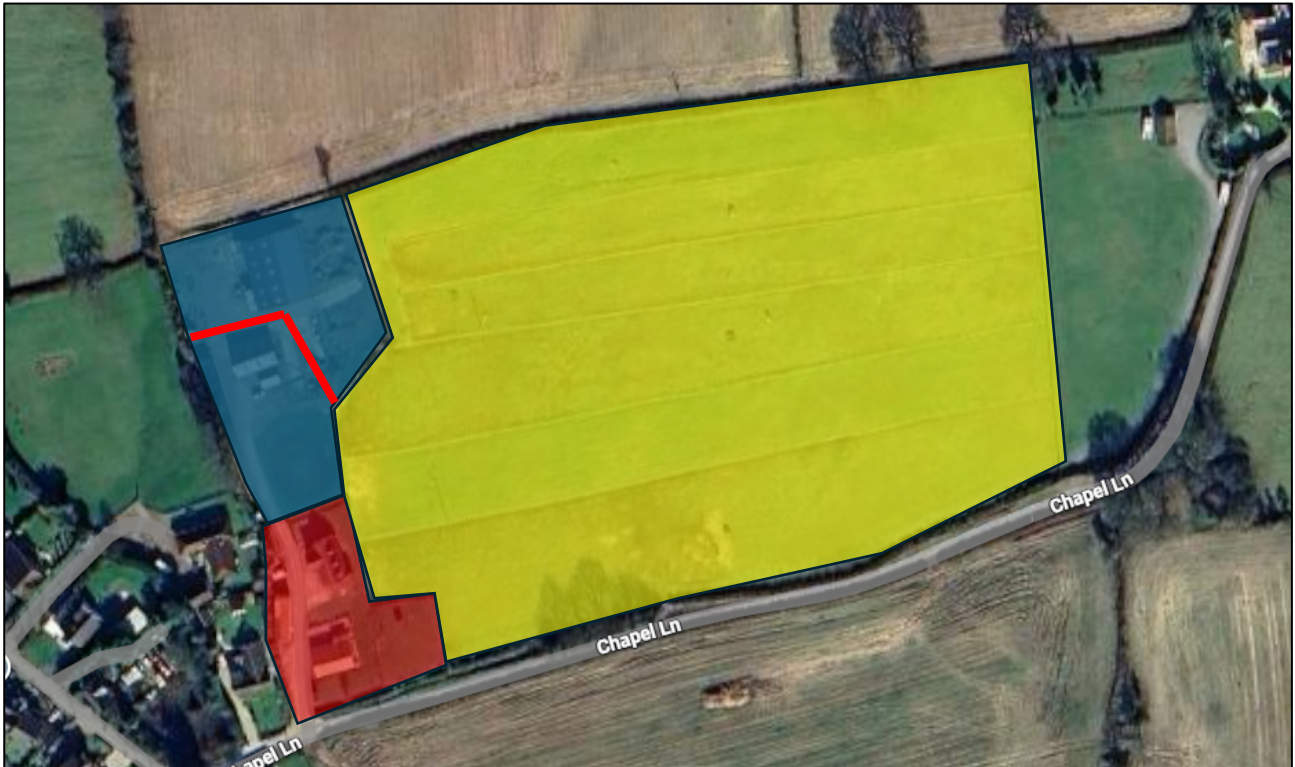
The relevant test of the submitted evidence

8.15 In appeals to the Secretary of State which raise "legal issues" (for example, enforcement appeals on grounds (b) to (e) in section 174(2)), where the burden of proof is on the appellant, the Courts have held that the relevant test of the evidence on such matters is "the balance of probability". As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt". Moreover, the Court has held (see - **F W Gabbitts v Secretary of State for the Environment and Newham LBC** [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or 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". The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application.

- 2.1 The area in question is a smaller part of the land holding at New Holding off Chapel Lane in Llandeud. New Holding is in general terms a small holding covering approximately 4.01Ha. At the time of the site visit in December 2025 this was subdivided into 3 main areas:
- A domestic area in the southwest of the site containing two dwellings and their garden areas, an outbuilding and parking and circulation space for vehicles. This area also gave access to the second area;
 - A yard and buildings area in the northwest of the site analogous to a 'farmyard'.
 - An 'agricultural' field to the east covering approximately 3.2Ha.

Drawing 01 – Disposition of Uses December 2025



Red – domestic
Blue – farmyard
Yellow – field

- 2.2 At the time of the visit the blue area had been sub-divided into a 'yard' area at the north and a 'horse' area at the south broadly as demarcated in the red line plan submitted with this application and the field had been sub-divided into grazing strips some of which contained rugged horses.

3. DESCRIPTION OF DEVELOPMENT

- 3.1 See above.

4. RELEVANT SITE HISTORY

App Number	Proposal	Decision & Date
1/6221	Erection of a bungalow for an agricultural worker (Outline) at land adjoining New Holding Llandeud	R 20 April 1979
1/11659	Erection of detached dwelling for an agricultural worker (outline) on land adjacent to Holly Cottage, Llandeud, Newport, Gwent.	R 26 August 1983
97/0409	ERECTION OF A DETACHED DWELLING	R

	Appealed - Dismissed	17 July 1997
98/0670/O	ERECTION OF ONE DWELLING	GC 07 September 1998
99/0288/F	ERECTION OF A DETACHED DWELLING	GC 30 April 1999
25/0273	CONSTRUCTION OF OUTDOOR MANEGE	Withdrawn 25 July 2025

5. PLANNING POLICY

5.1 NEWPORT LOCAL DEVELOPMENT PLAN (2011-2026)

None relevant.

5.2 SUPPLEMENTARY PLANNING GUIDANCE

None relevant.

6. CONSULTATION RESPONSES

6.1 Not applicable.

7. PUBLIC REPRESENTATIONS

None received.

8. ASSESSMENT

Site History

8.1 Site history is limited in terms of the Council's records although applications in the late 1970s and early 1980s were submitted for an agricultural worker's dwelling on the site implying some agricultural use of the site at that time.

8.2 Later applications for a dwelling in the 1990s (3no. in total) identify the land as a small holding with associated bungalow, with the bungalow and its curtilage being within the village boundary for Llandevaud and the rest of the holding being within the countryside for planning purposes. This points to the site being split into minimally two planning units; one suburban / residential in character and one more agricultural. In terms of the adopted NLDP it was initially proposed that Llandevaud would retain its village boundary as shown in the Drawing extract below. In terms of the 1998 and 1999 planning applications the relevant Officer reports describe the site for the proposed dwelling being within an established residential curtilage of a bungalow with an associated small holding. A supporting representation for the 1998 application advises that the proposed house is for one of Mr Reece senior's sons who *'helps in the agricultural business'*. There seems little doubt that the planning officer who dealt with those applications and at least one neighbour viewed the site as primarily agricultural in operation. It is unlikely any significant horse use would have escaped the attention of the relevant planning officer.



- 8.3 The boundary shown above appears to closely reflect the adopted UDP (1996-2011) boundary. However under further review the LDP proceeded to adoption with changes that removed the village boundary around Llandevaud due to the poor sustainability credentials of that settlement. However the proposed boundary confirms certain planning unit points in that there was a clearly demarcated residential area discrete from the working area of the unit going back to the UDP period.
- 8.4 In terms of the submitted evidence in this application, this consists of:
- A series of family photographs showing horses on (or near) the site from 1982 – 2000.
 - An invoice for 230 bales of wood flakes (19.01.1983)
 - Three unsworn statements:
 - One by Mr A G Reece confirming equestrian use and activity on the site from the 1980s to the death of Mr Reece senior (Sonny) in 2021.
 - One non-resident confirming their equestrian use of the site at various times between 1990 & 2023.
 - One from a neighbour advising horses have been on the site for the 33 years of their residence i.e. since 1992.
- 8.5 Publicly available aerial images suggest the following:
- Aerial 1991 (Council hard copy record; see Appendix 01): building in place, exercise area covered in silage bales, likely truck body and likely shipping container present.
 - Aerial 2001 – claimed exercise area shows container / truck bodies / silage bales present and possible manure pile.
 - Aerial 2004 – similar to 2001, no obvious horse use.
 - Aerial 2006 – similar to 2004, no obvious horse use

¹ Revised-Deposit-Local-Development-Plan—December-2013

- Aerial 2009 – ‘exercise’ area clear but significant silage / haylage present, no obvious horse use.
- Aerial 2010 – exercise area clear and apparently mowed reduced feed present.
- Aerial March 2013 – significant feed present on exercise area.
- Aerial September 2014 – exercise area clear but significant silage present within claimed area and no obvious horse use.
- Aerial June 2015 – exercise area mostly clear but feed still stored in the claimed area and no obvious horse use.
- Aerial August 2016 - exercise area mostly clear but feed still stored in the claimed area and no obvious horse use.
- Aerial June 2017 - exercise area mostly clear but feed still stored in the claimed area and no obvious horse use.
- Aerial April 2018 - exercise area mostly clear but feed still stored in the claimed area and no obvious horse use.
- Aerial February 2020 - exercise area mostly clear but feed still stored in the claimed area and no obvious horse use.
- Aerial July 2021 - exercise area mostly clear but feed still stored in the claimed area and no obvious horse use. Touring caravan stored adjacent ‘stables’ building.
- Aerial November 2021 – claimed area mostly clear but no obvious horse use in place.
- Aerial May 2023 – claimed area cleared, no obvious use at all, renovation of stable building undertaken and removal of lean-to attached to that building completed. No obvious horse use in place.
- Aerial March 2025 – circular pattern in exercise area, potentially from exercising a horse on a line. Field sub-divided into strips and horses likely present grazing within strips.

8.6 The December 2025 site visit confirms in effect four distinct areas to the site currently:

- The domestic area (houses and other domestic uses).
- The horse area – in effect the area claimed under this submission.
- The yard area to the north of the horse area containing a large building currently in use for storing agricultural / land management equipment.
- The field to the east.

8.7 On site Mr A G (Tony) Reece confirmed that the building within the claimed horse area had been built as a stables in the 1980s and had been renovated following the death of his father in 2021. This is supported by the aerial photographs and there is no reason to doubt this. He additionally confirmed that stables had been used for agricultural purposes from time to time as needed and it is clear from the aerial photographs that the associated land was frequently in use for a wider agricultural use with the feed storage for example, clearly being beyond the requirements of any horse use alone.

8.8 Of particular relevance here is the actual planning unit in question and when that came into existence. Burdle² advocates the following approach:

- Where there is a single main purpose to which other activities are incidental, the whole unit of occupation should be considered to be the planning unit.
- Where there is a variety of uses within a single unit of occupation none of which is incidental to the others and not confined to physically distinct areas of land, the whole will be the planning unit but will be put to a mixed or composite use.
- Finally, where within a single unit of occupation severally physically separate and distinct areas are put to substantially different and unrelated purposes then each is to be treated as a separate planning unit.

² Burdle versus Secretary of State for the Environment 1972

- 8.9 Also of relevance is what is incidental and what is a separate and distinct use un-associated from other uses that may be going on. This is best understood in terms of materiality in comparison to any prime or main function that might be identified within the planning unit.
- 8.10 The site visit in combination with the additional information offered up by Mr A G Reece, in combination with the aerial photographs confirms that when his parents moved onto the site in the mid-1970s the holding comprised a domestic area containing a typical (of the time) farm worker's bungalow and an associated domestic area which was fenced off and discrete from the working areas of the holding which themselves consisted of an area containing sheds for livestock and equipment and various areas of outdoor storage which fluctuated over time as buildings were repaired or extended or additional features such as containers and truck bodies appeared on the site. The other part was the field itself which was clearly in agricultural use at the time with agricultural contracting work also being an important but unquantified aspect of Mr Reece senior's (Sonny's) business activities.
- 8.11 There can be little doubt that the Reece family did own and house horses / ponies on the site over the years and that the 'stables' was built in the 1980s at least in part to facilitate that function. However this appears to have been a minor and incidental activity when taken in the round with the general agricultural purpose of the site which clearly dominated the overall character of the site and is evident from the submissions with this application and the other evidence available.
- 8.12 In terms of the planning unit before 2021 there seems to be no evidence that this should be considered as anything other than a farmyard and field comprising the agricultural part and a domestic part consisting of initially one and then two dwellings after permission for Sonny View was granted.
- 8.13 It is appropriate to consider if the horse use was capable of being considered a use of itself meaning that the larger agricultural unit was in fact in a mixed use of agriculture and equestrian use. However as noted the equestrian activities appear to have fluctuated with horses coming onto the site and leaving it dependent on the age and wishes of potential riders within the family and always having been a very minor element of the overall use of the land i.e. insufficiently material to constitute a mixed use in this case.
- 8.14 It is also relevant to consider whether the horse area was a distinct planning unit of itself where horse activity dominated. However the aerials do not show that. These show no functional distinction between the claimed horse area and the undoubtedly agricultural yard. It is clear that the claimed horse area was frequently in use for agricultural purposes and was not physically distinct from the agricultural area realistically before 2021.
- 8.15 The current site arrangement does not reflect the historical arrangement. There is now little doubt that there is a distinct horse area within the red line of this application and that agricultural activity has significantly contracted or even ceased. The family have retained certain equipment and are storing it in the area to the north of the claimed horse area primarily within a large portal frame building that has been recently renovated. But this land and equipment appears to be for the most part not in use for agricultural purposes either on or off the unit with neither of Mr Reece's senior's (Sonny) sons or grandchildren apparently working in agriculture. In any event the unit would certainly be too small of itself to be viable agricultural unit.
- 8.16 Some of the stable space is currently rented out and the field has been sub-divided into strips and horses are turned out on it. It is likely that the field remains agricultural since the horses appear to be incidentally grazing it rather than the field having been put to horsicultural use.
- 8.17 In conclusion the evidence provided does not show that the claimed use has been taking place on the identified land for a continuous period of 10 years prior to the submission of the application. Any 'pure' horse use within its own distinct area appears to have commenced in the 2020s (likely after 2023) with any prior horse use having been a minor and non-material part of the main purpose of the holding for agriculture.

- 8.18 Regardless of any planning unit issues and the materiality of any horse use on the site, the evidence provided does not robustly show a continuous horse use over any 10 year period including the 10 years prior to the application being made.
- 8.19 The applicant has confirmed that they wish to consider the lawfulness of the stables building. In plain terms the building has been substantially complete since before 1991. See Appendix 01 and although recently renovated there is no reason to think that the renovated building amounts to a new structure. The immunity period for a building is 4 years of substantial completion but potentially 10 years in other scenarios. In either case the building exceeds the immunity thresholds by very clear margins.
- 8.20 Caldwell and Timberstore v SSLUHC [2024] EWCA Civ 467 considered the impact of overlapping immunity periods for operational development and material change of uses and what limits to enforcement action might follow from that. Caldwell³ arose from an enforcement scenario where an unauthorised dwelling house had been built within the green belt near Beaconsfield. The LPA acted against the residential use within the 10-year use immunity period and concurrently acted against operational development primarily the dwelling under Murfitt principles i.e. the LPA identified the use as the principal harm and rolled up the building within that even though all parties agreed the building had been substantially complete and occupied for more than 4 years. This was not a scenario where the building had been constructed for another purpose and its use then changed to a dwelling.
- 8.21 It seems likely that the LPA adopted this unorthodox approach since it had failed to act within the 4 year enforcement window for reasons that are unclear. The Court concluded that were the building is integral to or causative of a change of use (such as a house) rather than some supporting or ancillary structure to facilitate a change of use; then then that structure becomes immune after 4 years of substantial completion even though the unauthorised use might still be acted against since the use immunity period is longer. Which is to say the house could not be removed under enforcement powers but the use as a house could be precluded.
- 8.22 In this case, as noted both the building and use immunity periods are long past. On the evidence the building was constructed as a stables and the site visit confirms that it is laid out in a stable form containing stalls to separate the animals being housed and that it remains substantially in the form that it was built in. Section 75(3) of the Town & Country Planning Act 1990 as amended advises that *If no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.* As such in plain terms if it looks like a stables, then it is a stables for planning purposes.
- 8.23 This opens up the possibility that the building and its primary use are immune through the passage of time. However Mr A G Reece confirmed that the building was not solely used to house horses and appears to have been flexible in its use over its lifetime i.e. it is not clear if it was used primarily and consistently to house horses, or for a mixed use of horses and agriculture or primarily as should be concluded from the general discussion on use as a smaller non-material element of a larger planning unit in use for the purposes of agriculture regardless of the particular details of its use.
- 8.24 In short the stables was not a distinct planning unit that could be separated from the wider site under Burdle principles and any horse use, which is in any event unclear in its extent and duration, was not material when judged against the main purpose of the wider unit. In any event the stables could hardly function without an associated curtilage making a puritanical consideration of the building alone non-sensical. What is entirely clear is that the building per se, as a structure is immune and could not be acted against even if the LPA was minded to do so. However use of that building substantively for equestrian purposes for a continuous period of 10 years is not proven.
- 8.25 Additionally any consideration of what is the correct planning unit to consider in this decision should be noted i.e. the current planning unit formed by the stables and adjacent land is not the historic one and has not been in place for 10 years. As such any immunity claim must fail.

³ Secretary of State for Levelling Up, Housing and Communities v Caldwell & Anor [2024] EWCA Civ 467 (02 May 2024)

9. OTHER CONSIDERATIONS

9.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

9.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

9.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

9.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

9.5 *Planning (Wales) Act 2015 (Welsh language)*

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

9.6 *Newport's Well-Being Plan 2018-23*

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

10. CONCLUSION

10.1 In conclusion the evidence provided does not show that the claimed use has been taking place on the identified land for a continuous period of 10 years prior to the submission of the application. Any horse use appears to have commenced in the 2020s (likely after 2023) with any prior horse use having been a minor and non-material part of the main purpose of the holding for agriculture.

11. DECISION

REFUSED

01 On the balance of probabilities the evidence provided does not show that the claimed use (equestrian activities) has been taking place at a material level on the identified land or within

the identified building for a continuous period of 10 years prior to the submission of the application, or any other 10 year period. The use is not lawful. Any horse use and associated planning unit appears to have commenced in the 2020s (likely after 2023) with any prior horse use having been a minor and non-material part of the main purpose of the wider holding for agriculture.

NOTE TO APPLICANT

01 This decision relates to the following plans and documents:

- Lawful Development Certificate Application (Evidence)
- Site Visit Notes and Photos – 11.12.2025

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No policies were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.

