

REDDITCH BOROUGH COUNCIL

Mr & Ms S & A Gregory & Johnson
c/o Mr Kevin Fellows
The General Architecture Company
5 Laburnum Road
Bournville
Birmingham
B30 1NE
United Kingdom

Approval of Certificate of Lawfulness for an Existing Use or Development

APPLICATION REFERENCE:	26/00959/CPE
FIRST SCHEDULE:	Lawful development application for the residential curtilage as outlined on the accompanying drawings for residential use, C3 - dwelling houses.
SECOND SCHEDULE:	6 Moors Lane, Feckenham, Worcestershire, B96 6JH
DECISION DATE:	1st October 2026

Redditch Borough Council **HEREBY CERTIFIES** that on **13th August 2026** the operations described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 as amended, for the following reason:

Reason

Application and Relevant History

This application seeks confirmation that the land has been used as residential garden serving No. 6 for a continuous period exceeding 10 years before the date of the application.

A Certificate of Lawfulness for an Existing Use or Development was previously granted by Redditch Borough Council on 1 May 2024 under reference 23/01237/CPE. Following issue of that Certificate, it was identified that a sworn affidavit submitted in support contained a factual error concerning ownership of the land.

Land ownership is not a planning matter and the error did not alter the planning assessment of whether the use was lawful. Nevertheless, the previous Certificate was determined by reference to documentation containing an acknowledged factual error. Certificate 23/01237/CPE is therefore being presented to Planning Committee on 22nd October 2026 for revocation so that the formal record can be corrected and regularised.

The applicants have since purchased the land referred to in the earlier affidavit and have submitted this new application under reference 26/00959/CPE. The evidential case concerning the historic use of the land is materially the same, but the sworn affidavits have been updated to reflect the current and accurate ownership position.

Assessment

The onus is on the applicants to demonstrate, on the balance of probabilities, that the use began more than 10 years before the date of the application and continued throughout the relevant period.

The supporting evidence comprises updated sworn affidavits from Amy Johnson and Scott Gregory, the current owners of No. 6 Moors Lane; transfer documentation, title plans and Land Registry records; a letter from Mr and Mrs Morris, the former owners and landlords of Nos. 2, 4 and 6 Moors Lane, describing the land as garden for approximately 60 years; a property timeline; historic mapping and aerial photographs; and photographs and witness evidence concerning the use of the land.

Evidence in support:

- o Updated sworn affidavits from Amy Johnson and Scott Gregory confirming the present ownership position and the use of the land as garden.
- o Transfer documentation, title plans and Land Registry records, including evidence of the applicants' purchase of the land.
- o A letter from Mr and Mrs Morris describing the land as garden space over a period of approximately 60 years.
- o A property timeline, historic mapping, aerial photographs and site photographs.
- o The applicants' response to the concerns raised during consideration of the previous application.

During consideration of the previous application, Feckenham Parish Council initially objected on the basis that insufficient evidence had been submitted, but subsequently withdrew its objection following receipt of further material. Contrary declarations were also provided by Wendy Powell, owner of No. 4 Moors Lane, and Alan Smith of 2 Mill Lane, who stated that the land was overgrown and was not being used as garden when observed in 2017. No further representations have been received as part of this application however all parties were consulted.

The applicants' Property Timeline includes the 1931-1933 Land Utilisation Survey, which depicts the land up to the western boundary with the Priory Barn field as garden. Aerial photographs from around 2009 also show the land in domestic garden use. This is supported by the long-term witness accounts from Mr and Mrs Morris and by the submitted photographs.

The contrary evidence received during the previous application, relates to the condition and intensity of use observed from 2017. The applicants have explained that the garden was allowed to become overgrown during that period because of personal circumstances. A period of overgrowth or reduced maintenance does not, without evidence of a different intervening use or abandonment, necessarily amount to a material change of use or terminate the established residential garden use.

The ownership error identified in the affidavit supporting application 23/01237/CPE did not relate to the nature, duration or continuity of the use. For the current application, the applicants have purchased the land and the affidavits have been corrected to reflect that ownership. The documentation now provides an accurate basis on which to determine the application.

Conclusion and Recommendation

Having considered the evidence as a whole, the historic mapping, aerial photographs, documentary material and long-term witness accounts provide a coherent and sufficiently robust account of the land having been used as garden serving No. 6 Moors Lane for a continuous period exceeding 10 years. The evidence relating to overgrowth from 2017 does not demonstrate that a material change of use occurred or that the established garden use was abandoned.

The factual ownership error has been remedied. It does not undermine the substantive evidence concerning the lawful use, and no new evidence has been identified that would alter the previous planning assessment.

Decision: The submitted evidence demonstrates, on the balance of probabilities, that the land has been used continuously as residential garden serving No. 6 Moors Lane for the requisite period. The Certificate of Lawfulness for an Existing Use or Development under application 26/00959/CPE should therefore be granted



Ruth Bamford

Assistant Director for Planning, Leisure and Culture Services

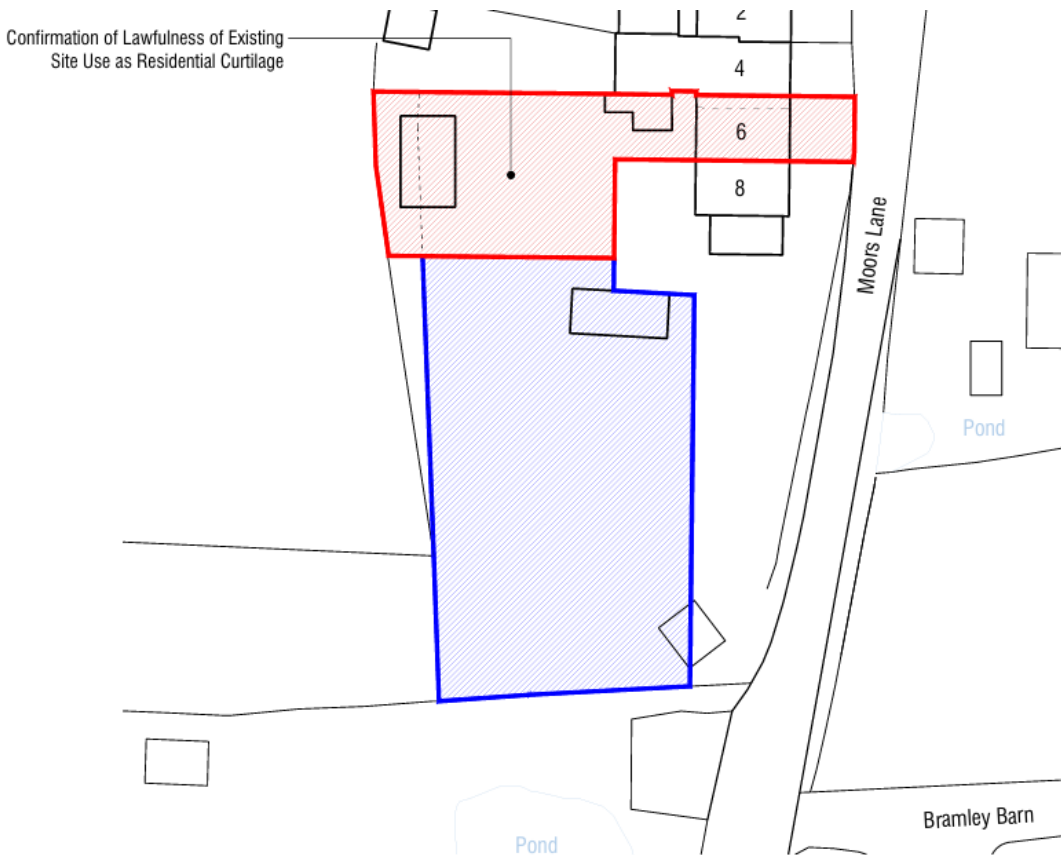
Notes

- 1) This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990 (as amended).
- 2) It certifies that the use/operations/matter specified in the First Schedule taking place on the land described in the Second Schedule was/were lawful, on the specified date and, thus, was not/were not liable to enforcement action under section 172 of the 1990 Act on that date.
- 3) This certificate applies only to the extent of the use/operations/matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operations/matter which is/are materially

different from that/those described or which relate/s to other land may render the owner or occupier liable to enforcement action.

- 4) The effect of the certificate is also qualified by the proviso in section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

This is the plan referred to in the Lawful Development Certificate dated **13th August 2026**



Site Address
6 Moors Lane
Feckenham
Redditch
B96 6JH

