

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	261668
Site Address:	1 Mortimer Road, Grazeley, Wokingham, RG7 1LA
Expiry Date:	17 September 2026
Site Visit Date:	26 August 2026
Proposal: Application for a certificate of existing lawful development for use of extension as a separate residential dwelling for independent occupation.	

PLANNING HISTORY

Application No.	Description	Decision & Date
202797	Householder application for the proposed erection of a two-storey side/rear extension following demolition of existing side extension and existing garage.	Approved 07/12/2020

INFORMATION PROVIDED

By the applicant:

- Lawful Development Certificate Application Form states that the use of the building as a single dwellinghouse began on 07 July 2022.
- CIL Form.
- Existing Elevation Plans
- Existing Floor Plans
- Site Plan
- Location Plan
- Planning Statement (Bell Cornwell, Ref: 4689, dated 15 July 2026)
- Electrical Installation Certificate (NIC EIC, dated 18 May 2022)
- Final Certificate (Regional Building Control Limited, dated 11 April 2022)
- Building Regulations Compliance Certificate (Berkshire Heating Engineers, dated 09 May 2022)
- Final Certificate (Regional Building Control Limited, dated July 2022)
- Kitchen Invoice (Paramjit Singh Construction, dated June 2022)
- Photograph of sealed internal door dated 03/07/2022
- Bank Statements (Lloyds, J Bola, March – December 2023)
- Snip of Booking.com site listing
- Booking.com reservation details (MHK-EXPO Spotka z ograniczonq... Jul 2022), (D. Miles, Oct-Nov 2022), (A. Stephens, Nov-Dec 2022), (E. Barras, Jan 2023),
- Snip of Airbnb site listing
- Airbnb reservation list (Aug 2022 – Feb 2023)

- Signed Tenancy Agreement (Landlord: Inderpal Bola, Tenant: J. Watters, tenancy period: 01 Mar-Feb 2023)
- Signed Tenancy Agreement (Landlord: Inderpal Bola, Tenants: T. Bramwell & K. Lees-Parker, tenancy period: 01 Oct-31 Dec 2023)
- Signed Tenancy Agreement (Landlord: Inderpal Bola, Tenant: S. Chauhan, tenancy period: 04 Jan-30 Jun 2024)
- Signed Tenancy Agreement (Landlord: Inderpal Bola, Tenants: S. Chauhan & A. Pallaty, tenancy period: 08 Apr-08 Oct 2024)
- Statutory Declaration (A. Pallatty)
- Statutory Declaration (I. S. Bola)
- Statutory Declaration (S. Chauhan)

By the Council:

- Planning history records check
- Planning enforcement history check
- Officer site visit photographs (dated 26 August 2026)
- Royal Mail Address Finder
- Building Control Records - Tascomi

By third parties:

- Shinfield Parish Council – No comment to make.

APPRAISAL

Section 55(1) of the Town and Country Planning Act 1990 (as amended) defines development as “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”

Section 57 of The Town and Country Planning Act 1990 (as amended) requires that planning permission is required for the carrying out of any development of land.

Section 171B (1) 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 ten years (formerly four years) beginning with the date on which the operations were substantially completed.

Section 171B (3) states that in the case of any other breach of planning control, no enforcement action may be taken after the end of ten years beginning with the date of the breach.

Regarding the above, Section 5 of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 states that the amendments made to the 1990 Act by section 115 of the 2023 act (time limits for enforcement) do not apply where in respect of a breach referred to in section 171B(1), the operations were substantially completed before the day on which that section comes into force (25/04/2024). This means that where operational development has been carried out before 25/04/2024, the four year rule still applies (except where the operations has facilitated a material change of use).

Section 191 deals with applications for Certificates of Lawfulness of existing development, and the authority's duty to determine them.

Section 191(1)(a) provides that if any person wishes to ascertain whether any existing use of a building or other land is lawful, they may make an application for that purpose to the local planning authority specifying the land and describing the use, operations or other matter. As Section 191(1) (a) is written in the present tense, it is plain that the use must exist at the time of the application.

For the purpose of the 1990 Act s.191(2) defines operations as 'lawful' if:

- (a) no enforcement action may 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.

Case Law

The courts have held in *Gabbitts v Secretary of State for the Environment* [1985] JPL 630 that the relevant test of evidence on such matters is 'the balance of probability'. The Courts have also held that the applicant's own evidence does not need to be corroborated by 'independent' evidence in order to be accepted. If the Local Planning Authority has no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less probable, there is no good reason to refuse that application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

In considering applications for a Certificate, the guidance given by the High Court in *Panton and Farmer v Secretary of State for the Environment, Transport and the Regions* and *Vale of White Horse D.C.* [1999] JPL 461 is of value.

Three questions need to be answered. Firstly, "When did the material change of use specified in the application occur?" To be lawful, this would need to be before 1 July 1948, by 31 December 1963, or at a date at least 10 years prior to the current application, or 4 years for operational development or use of a building as a single dwelling.

Secondly, if the material change took place prior to those dates, has the use specified in the application been lost by operation of law in one of three possible ways, namely by abandonment, the formation of a new planning unit, or by way of a material change of use, be it by way of implementation of a further planning permission or otherwise.

Finally, if the decision maker is not satisfied that the description of the use as specified in the application properly describes the nature of the use, the decision maker must modify/substitute each description so as to properly describe the nature of the material change of use which occurred.

The *Panton* case was considered further by the Courts in *Secretary of State for the Environment, Transport, and the Regions v Thurrock BC* [2002] EWCA Civ 226. In this case the Court of Appeal considered that the rationale of immunity from enforcement was that throughout the whole of the ten-year period of unlawful use the Local Planning Authority, although having the power to take enforcement action, had failed to do so. So, if at any time during the relevant period the authority would not have been able to take enforcement proceedings in respect of the breach (because for example the

unauthorised use had temporarily ceased) than any such period could not count towards the ten-year period which gives rise to immunity.

The effect of the decision in *Thurrock* is to require a far more stringent test of immunity than had previously been thought following the decision in *Panton*. In particular, the decision means that if an unlawful use ceases and is then recommenced, the ten-year period required for immunity begins on the act of recommencement. For an unlawful use to obtain immunity from enforcement, it has to be exercised continually and without significant interruption for the whole of the ten-year period.

The question is therefore whether an interruption of an unlawful use is enough to defeat any claim of immunity from enforcement proceedings. A short period may be regarded as a continuing use; a longer period may not. The Courts have held that this question is a matter of fact and degree for the decision maker in every case.

APPRAISAL:

The application is for a Certificate of Lawful Existing Use for the use of the extension as a single dwellinghouse.

In most cases, development becomes immune from enforcement if no action is taken:

- within ten years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place on or after 25 April 2024.
- within ten years for an unauthorised change of use to a single dwellinghouse where the change of use took place on or after 25 April 2024.
- within four years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place before 25 April 2024;
- within four years for an unauthorised change of use to a single dwellinghouse where the change of use took place before 25 April 2024.
- within ten years for any other breach of planning control (essentially other changes of use).

In the case of this Certificate, it must be demonstrated that the use as a single dwellinghouse at the date of the application's submission, and whether the use has been occurring for a consecutive period of four years (**15 July 2022**).

Condition 6 of permission 202797 reads:

6. The extensions and alterations hereby approved shall be used as ancillary accommodation to the main dwellinghouse and the dwelling shall remain in use as a single dwellinghouse and not be used, sold or sub-let as separate dwellings.
Reason: A separate unit of accommodation of this nature may not be acceptable in this location in the interests of the amenities, character of the area and highway safety in accordance with Core Strategy Policies CP1, CP3, CP4, and Managing Development Delivery Local Plan Policies CC01, CC07, TB07, TB08.

Figure 1: Condition 6 taken from the Decision Notice for permission 202797.

For the purposes of this application, it is necessary to determine whether the use of the extension as a separate single dwellinghouse was lawful on the date the application was submitted and whether that use had subsisted continuously for the relevant immunity period. The applicant contends that the extension became a separate

dwellinghouse on 7 July 2022, and the submitted evidence seeks to demonstrate that the use has continued without material interruption since that date.

Condition 6 of planning permission 202797 states that the accommodation approved as part of the two-storey side extension shall remain ancillary to the occupation of the main dwelling and shall not be occupied as a separate unit of residential accommodation.

Having regard to the evidence submitted, it is accepted on the balance of probabilities that the accommodation has been occupied independently of the main dwelling since July 2022 and now constitutes a separate planning unit. Applying the principles established in *Burdle v Secretary of State for the Environment* (1972), the unit does not function as ancillary accommodation to the host dwelling but operates as a physically separate area occupied independently from the host dwelling. It is reported that the use of the accommodation as a separate dwellinghouse amounts to a material change of use from the development approved under permission 202797.

In considering the applicable immunity period, regard has been had to the judgment in *First Secretary of State v Arun District Council and Brown* [2006] EWCA Civ 1172. The Court of Appeal found that where accommodation approved subject to an occupancy restriction which subsequently becomes occupied as a separate dwellinghouse, the breach may involve both a breach of condition and a material change of use to a single dwellinghouse. In such circumstances, the specific limitation period applicable to the use of a building as a single dwellinghouse applies. Subsequent appeal decisions have followed this approach where accommodation originally authorised for an ancillary or restricted purpose has later become occupied as a separate dwellinghouse.

In this instance, the applicant must demonstrate that a material change of use from ancillary accommodation to a separate dwelling did occur. On the one hand it is argued that the extension was built as part of the main dwelling and only later became a separate planning unit (to obtain the benefit of the 4-year rule). On the other hand, much of the physical evidence appears consistent with a unit that may have been designed and completed as a self-contained dwelling from the outset.

The Council has also had regard to the transitional provisions introduced by the Levelling Up and Regeneration Act 2023. From 25 April 2024, the four-year and ten-year enforcement periods were replaced by a general ten-year enforcement period. However, the legislation includes provisions for breaches that occurred before 25 April 2024. In circumstances where a change of use to a single dwellinghouse had already occurred before that date, the former four-year immunity period continues to apply. In this case, the applicant reports that the material change of use to a separate dwellinghouse commenced in July 2022, before 25 April 2024. If this is the case, then the application falls to be assessed under the former provisions of Section 171B(2), rather than the amended ten-year rule.

Planning merits are not relevant at any stage in the process, however, evidence from third parties, including neighbours, can be obtained should the Local Planning Authority consider it necessary to do so. The National Planning Policy Guidance (NPPG) sets out that the onus of proof is on the applicant, not the Local Planning Authority in submitting a Certificate of Lawfulness. However, the NPPG also states that “if Local Planning Authorities have no evidence of their own to contradict or undermine the applicant’s version of events, there is no good reason to refuse the application provided

that the applicant's evidence is clear and unambiguous to justify the grant of a certificate".

Site Description:

The application site consists of a two and a half storey attached property located on the southern side of Mortimer Road, Grazeley. The site is located outside settlement limits in designated countryside.

Mortimer Road is a short section of road that connects Lambwood Hill to the south with Bloomfield Hatch Lane to the north. Mortimer Road consists of a relatively small cluster of approximately 21 residential properties. The northern end of the road is bound by Grazeley Parochial C of E Aided Primary School. Open countryside surrounds the cluster of buildings.



Figure 2: Application Site (ArcGIS mapping (10/09/2026))

The site consists of approximately 177 sqm of land to the east of attached property; no. 1 Mortimer Road. The application building is set back from the road behind a high-level timber clad fence. The frontage of the property is shared with no. 1 Mortimer Road with one vehicle access that serves both properties and a shared driveway. The host building is accessed independently via a side path leading to the entrance door. To the rear is a small private garden area comprising of timber decking, fenced off from the larger garden of no. 1 Mortimer Road. There is a secondary set of doors in the rear elevation to access the garden area from the living room.

The Applicant's Evidence:

Application Form

The application form states that it seeks to confirm the lawfulness of the following existing lawful use:

"Use as a single dwellinghouse (C3)".

The application form explains why the certificate should be granted:

"The change of use to use as a single dwelling house began more than four years before the date of this application".

They state that the activity is not in breach of any condition.

They state the use commenced on 07/07/2022.

They state that there has been no interruption in use.

They state that there has been no material change of use since the start of the use for which a Certificate is sought.

They state that there has been a change that relates to a change in the number of residential units.

For this application to be successful, the Applicant must demonstrate, on the balance of probabilities, that the use of the extension as a separate self-contained dwellinghouse commenced prior to 25 April 2024 and continued without material interruption for a period of at least four years. In doing so, the Applicant must provide sufficient evidence to establish that a material change of use occurred from ancillary accommodation associated with the principal dwelling to an independent dwellinghouse, and that this use was ongoing and lawful at the date of the application. If these matters are demonstrated, the use would benefit from statutory immunity under the former provisions of Section 171B(2) of the Town and Country Planning Act 1990, as preserved by the relevant transitional provisions, and would therefore be lawful for the purposes of Section 191 of the Act.

Planning Statement:

To support the change of use of the land to a separate dwellinghouse, a Planning Statement (Bell Cornwell, Ref: 4689 dated 15 July 2026) has been provided. The planning statement contends that the side extension at 1 Mortimer Road, Grazeley has operated as a separate self-contained dwellinghouse continuously since 7 July 2022, and that on the balance of probabilities it has therefore become lawful through the passage of time.

The applicant argues that:

- The use as a separate dwellinghouse commenced before the legislative changes introduced on 25 April 2024.
- The extension was originally constructed as part of the main dwelling and only subsequently became a separate planning unit. Page 3 states that the building was originally built as an extension with the internal access later removed to facilitate the use as a separate dwelling. It reads: *"Therefore, this was not constructed as a separate dwelling in breach of the permission; rather, a lawfully constructed extension was subsequently converted into an independent planning unit"*.
- Therefore, the former 4-year immunity period for change of use to a single dwellinghouse applies, rather than the newer 10-year period.

The applicant seeks to establish that the accommodation is a separate planning unit rather than ancillary accommodation by arguing that it:

- Has a private entrance.
- Contains a kitchen, bathroom, living area and bedrooms.
- Provides all facilities necessary for independent day-to-day living.
- Does not rely on facilities within the main house.

- Has been occupied by persons unrelated to the occupiers of the main dwelling.

The statement argues that the accommodation is therefore not incidental or ancillary to the main dwelling and constitutes a separate dwellinghouse in its own right.

The applicant relies on evidence from a number of sources including holiday let evidence, long-term residential letting evidence, supporting financial and witness evidence, and building control completion certificates.

In summary, the applicant's case is that:

1. The extension was completed by 01 July 2022.
2. It was first occupied independently on 7 July 2022.
3. It has been continuously occupied since then through a combination of holiday lets and residential tenancies.
4. It contains all facilities necessary for independent living and therefore constitutes a separate dwellinghouse.
5. The use has continued for more than four years and is therefore immune from enforcement action and lawful.

Holiday Let Evidence (July 2022 to January 2023)

The applicant relies on evidence from Booking.com and Airbnb to demonstrate occupation immediately after completion of the extension. This includes:

Booking.com reservations details:

- 7 July 2022 to 16 July 2022.
- 30 October 2022 to 21 November 2022.
- 29 November 2022 to 29 December 2022.
- 1 January 2023 to 22 January 2023.

History of completed Airbnb reservations:

- 3 August 2022 to 25 August 2022.
- 11 September 2022 to 26 September 2022.
- 1 October 2022 to 20 October 2022.
- 6 February 2023 to 16 February 2023.

The online listings marketed the accommodation as "Quiet Countryside Retreat", advertised as an entire home with private entrance, kitchen, lounge, bathroom and parking.

Breaks between reservations (each less than one month), are for short periods and do not amount to an abandonment of the use.

Long-Term Residential Letting Evidence (March 2023 Onwards)

The applicant submits four tenancy agreements to demonstrate continued residential occupation following the short-term holiday letting period. The dates covered are:

1 March 2023 to 31 August 2023.

1 October 2023 to 31 December 2023.

4 January 2024 to 30 June 2024.

8 April 2024 onwards (rolling tenancy).

The statement states that the accommodation was let under Assured Shorthold Tenancy agreements, tenants were unrelated to the owner, and that the current tenants have remained in occupation since 2024.

Supporting Financial and Witness Evidence

To corroborate the claimed occupation of the extension as a separate dwellinghouse, the applicant relies on a range of witness and financial evidence. This includes a statutory declaration from the owner covering the period from 2022 onwards, together with statutory declarations from the current tenants confirming their occupation of the property. The application is further supported by bank statements showing rental payments received from named tenants during the periods covered by the tenancy agreements, together with evidence demonstrating that rent was paid continuously throughout the various tenancies. The applicant contends that, when considered collectively, these documents provide evidence that the accommodation has been occupied as a separate residential unit by individuals unrelated to the occupiers of the main dwelling.

The statutory declarations

Inderpal Bola

The evidence submitted relies on a statutory declaration provided by the applicant (Mr I. S. Bola). The declaration has been signed in the presence of solicitors at LGFL Ltd, Wyvols Court on 14 July 2026.

In his statutory declaration, Inderpal Singh Bola, the owner of both 1 Mortimer Road and the adjoining property known as Quiet Countryside Retreat, states that the approved two-storey extension was completed and signed off by Building Control on 1 July 2022. He explains that, following completion, an internal doorway between the extension and the main dwelling was sealed and the extension was occupied as a separate self-contained unit with its own access, kitchen, bathrooms, living accommodation and private amenity space. The declaration states that the property was first occupied as a separate dwelling on 7 July 2022, initially through short-term holiday lettings and subsequently through a succession of residential tenancies. Mr Bola confirms that the accommodation has been occupied independently of the main dwelling on a continuous basis since July 2022 and has functioned as a separate dwellinghouse throughout that period.

Shivani Chauhan

The submitted statutory declaration has been signed in the presence of solicitors at LGFL Ltd, Wyvols Court on 14 July 2026. In the declaration, Shivani Chauhan confirms that she has been a tenant of the property known as Quiet Countryside Retreat, adjacent to 1 Mortimer Road, since 4 January 2024. She states that she initially occupied the property under a sole tenancy agreement before entering into a joint rolling tenancy agreement with Alan Pallaty on 8 April 2024. Ms Chauhan confirms that she has resided at the property continuously since 4 January 2024 and states that, throughout her tenancy, the accommodation has been occupied and used as a standalone dwellinghouse independent of the main dwelling.

Alan Pallatty

The submitted statutory declaration has been signed in the presence of solicitors at LGFL Ltd, Wyvols Court on 14 July 2026. In his statutory declaration, Alan Pallatty confirms that he has been a tenant of Quiet Countryside Retreat, adjacent to 1 Mortimer Road, since 8 April 2024 under a rolling joint tenancy agreement with Shivani Chauhan. He states that he has resided at the property continuously since the commencement of the tenancy and confirms that, throughout his occupation, the property has been used as a standalone dwellinghouse.

Evidence of Completion

The applicant has also submitted a range of documents to demonstrate that the accommodation was physically complete and capable of independent occupation by 07 July 2022. These include Building Control completion certificates, gas safety certification, an electrical installation certificate and documentation relating to the installation of the kitchen. The planning statement contends that this evidence establishes that the necessary building works and services had been completed prior to the first recorded occupation of the accommodation, thereby confirming that the extension was available for use as a self-contained residential unit from July 2022 onwards. The Applicant has submitted a photograph which they report demonstrates that an internal door was sealed up to facilitate the change of use to a separate and independent dwelling.



Figure 3: Internal door sealed up, provided by the applicant and dated 03/07/2022

The Council's Evidence

Issue to be determined

The application seeks to establish that the side extension has been used as a separate single dwellinghouse for the relevant period and is therefore lawful through the passage of time.

Condition 6 of permission 202797 required the approved extension to remain ancillary to the main dwellinghouse and prevented it from being used, sold or sublet as a separate dwelling.

Where a material change of use to a single dwellinghouse occurred before 25 April 2024, the former four-year period continues to apply under the transitional provisions. Those provisions preserve the former section 171B(2) position where the relevant breach occurred before the legislative change took effect.

The Court of Appeal judgment in *First Secretary of State v Arun District Council and Brown* [2006] EWCA Civ 1172 establishes that the former four-year period may apply where the use of accommodation as a separate single dwellinghouse also breaches a condition intended to prevent that use. It is not therefore necessary for the applicant separately to demonstrate ten years of non-compliance with Condition 6.

However, the applicant must demonstrate that the breach consisted of a change of use of the building to use as a single dwellinghouse. The critical question is therefore whether:

1. The extension was completed as part of, or as accommodation ancillary to, the main dwellinghouse and was subsequently converted to a separate dwellinghouse; or
2. It was physically constructed, completed and brought into use as a separate dwellinghouse from the outset.
3. Whether the use of the building as short-term holiday accommodation was materially different to use by longer term tenants.

If the building was completed and first used as a separate dwelling from the outset, the evidence may not establish the subsequent material change of use upon which the applicant relies. It is for the applicant to establish the relevant facts on the balance of probability. The applicant's evidence does not require independent corroboration in every respect, but it must be sufficiently precise and unambiguous to justify the grant of a certificate.

Evidence that the accommodation currently forms a separate planning unit

There is strong evidence that, by the application date, the accommodation was functioning as a separate residential unit.

The officer's site visit identified independent living accommodation containing a kitchen, living area, bathroom and bedrooms. The unit had its own entrance and was physically capable of meeting the day-to-day needs of its occupants without reliance on the living accommodation within the main house. The submitted tenancy agreements and statutory declarations also indicate occupation by people who were not members of the household occupying the subject dwelling.

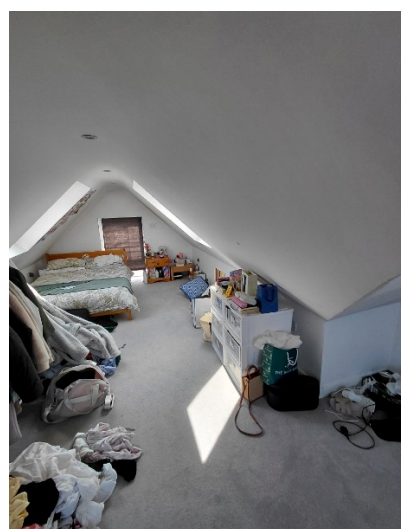
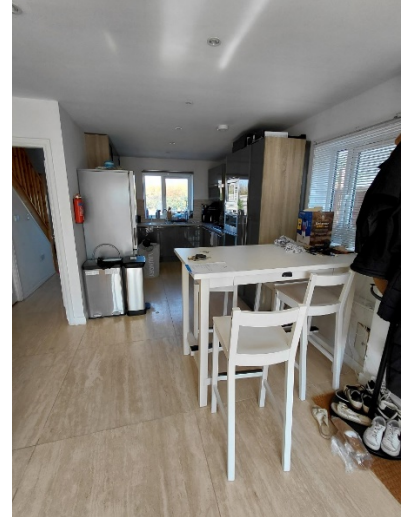
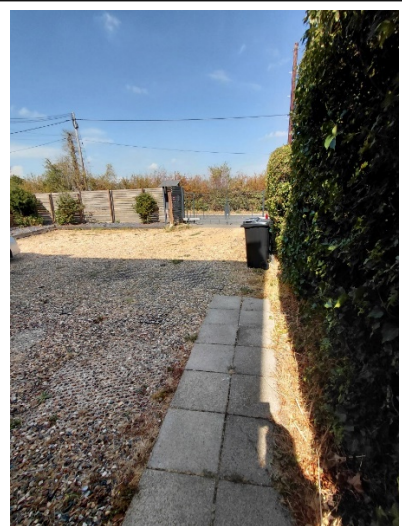


Figure 4: Site visit photographs taken by the case officer on 26 August 2026.

The internal accommodation observed during the site visit is consistent with a self-contained residential unit.

This evidence carries substantial weight in establishing the current planning circumstances. It supports the conclusion that the accommodation now forms a separate planning unit and is currently occupied independently of the host dwelling.

However, current physical separation does not, by itself, establish when the separate planning unit was created, whether the accommodation previously formed part of the main dwelling, whether it was constructed as a separate dwelling from the outset, or whether the same use continued throughout the period claimed. While the evidence demonstrates that the accommodation is presently capable of independent occupation, it does not resolve the key question of when and how the alleged material change of use occurred.

Evidence concerning completion of the building

The Building Control Final Certificate records completion of the building works on 1 July 2022. The description of the Building Regulations project as a two-storey side extension with a room in the roof and an external masonry skin to the existing dwelling is consistent, in broad terms, with an extension to an existing house.

This is strong evidence of the date by which the building works had been completed and that the accommodation was physically capable of occupation by early July 2022.

However, the Building Control evidence carries limited weight in determining the precise internal arrangement at completion because the Council does not hold the plans upon which the Final Certificate was issued. As a result, it has not been possible to verify the configuration of the staircases, whether the approved internal connections to the host dwelling were provided, whether the first floor could be accessed from the principal dwelling, whether the first-floor en-suite was constructed as approved, whether the side entrance was already present, or whether the accommodation was already physically self-contained.

The plans approved under permission 202797 included four internal connections between the host dwelling and the side extension (see Figure 5).

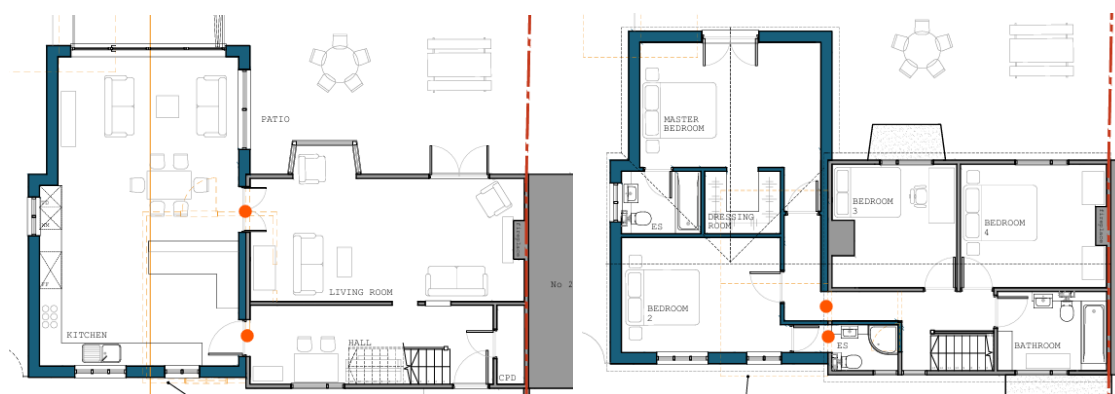


Figure 5: Proposed plans under permission 202797 showing four internal access points

However, the applicant has only provided a single photograph showing one sealed opening. Whilst this provides some evidence that an internal connection was closed, it does not demonstrate that all approved connections were constructed and subsequently infilled as part of the alleged conversion, nor does it establish when those works took place. As such, the evidence is insufficient to verify the extent and timing of the physical separation between the extension and the host dwelling.

Accordingly, whilst the Final Certificate confirms that the building works were completed, it does not establish how the extension was configured internally at that time or whether it was functioning as part of the host dwelling or as an independent unit.

Proximity between completion and first separate occupation

The very short period between Building Control completion on 01 July 2022 and the first documented short-term letting on 7 July 2022 is a significant consideration.

The applicant's case is that the building was completed as an extension to the main house and was subsequently converted into an independent planning unit. On that case, the necessary physical and practical separation would appear to have taken place during the six days between the Building Control completion date and the commencement of the first booking.

The evidence does not clearly explain what works were undertaken during that period to facilitate the conversion to a separate dwelling. In particular, it does not establish when the independent staircase arrangements were installed, when the side access was created, or when the accommodation became fully fitted out and ready for occupation. One photograph (Figure 3) has been submitted showing one internal connection that was sealed up. However, whilst this may indicate that an opening was infilled, it does not clearly identify where within the building the opening was situated, nor does it demonstrate the original relationship between the extension and the main house at each floor level. Furthermore, it does not establish that all approved internal connections were constructed and subsequently closed.

While the short interval does not prove that the building was constructed as a separate dwelling. It is nevertheless strong circumstantial evidence that the self-contained arrangement may already have existed at, or before, practical completion. That interpretation is reinforced by the absence of dated drawings, invoices, construction photographs or contractor evidence showing substantial conversion work undertaken between 1 and 7 July 2022.

Consequently, the chronology of the alleged change from ancillary accommodation to a separate dwelling remains unclear.

Staircases and internal arrangement

The staircase configuration is important because it may assist in establishing whether the accommodation was designed to function independently.

The approved extension appears to have required a physical relationship with the existing dwelling at more than one level. The evidence presently available does not establish that those approved connections were provided when the extension was completed. Nor does it establish when the current independent staircase arrangements were installed.

The installation of separate staircases serving the upper floors would ordinarily involve more than a minor alteration. If those staircases were present at the time of Building Control completion, that would be strong evidence that the accommodation was physically arranged for separate occupation from the outset. Conversely, dated evidence showing that the staircases were installed after completion would support the applicant's claimed sequence of events.

In the absence of Building Control drawings, dated construction photographs, contractor invoices or a sufficiently detailed statutory declaration addressing the staircase works, this material issue remains unresolved.

The applicant's statutory declaration states that an internal doorway was sealed following completion. However, it does not provide sufficiently detailed evidence of the original circulation between the two parts of the building, the original arrangement at first-floor level, the treatment of the approved en-suite, the dates on which the internal connections were closed, or the dates on which the staircases were installed. The declaration is relevant first-hand evidence and carries some weight; however, its general account does not resolve the specific physical inconsistencies identified from the approved plans, the available evidence, and the current layout of the accommodation. Consequently, whilst the declaration supports the applicant's contention that alterations took place following completion, it does not provide a sufficiently clear chronology to establish when the accommodation ceased to function as part of the host dwelling and became a separate planning unit

Kitchen and side entrance

The kitchen quotation dated June 2022 refers to a "kitchen side entrance." This predates the Building Control completion date and the alleged change to separate occupation.

PARAMJIT SINGH CONSTRUCTION
 14 Ashford Avenue
 Hayes, Middx. UB8 3LY
 M: 0745 024 8105
 E: pangh.khalsa4@yahoo.co.uk

New Builds - Loft Conversions - Extensions - Plastering
 Brickwork - Driveways - Paving - Garages - Roofing
 Bathrooms - Electrical - Plumbing - Kitchens
 Double Glazing - Block Paving & ALL GENERAL WORK

Invoice No. RS726
 Date: JUN 22

Name: Indira Singh

Address: 1 Mortimer Rd RG7 1CA

QTY	DESCRIPTION	TOTAL
	Dismantle of seller kitchen	725
	Transportation to site	450
	Reinstallation of units, worktops, appliances + connections	1800
	Rapid additional plumbing & elec	550
	Kitchen side entrance (labour only)	650
TOTAL		4175
DEPOSIT		
BALANCE		4175

P. Singh
 PAID IN FULL

Figure 6: Kitchen quotation dated June 2022

This is relevant circumstantial evidence because the approved householder extension did not appear to include an independent side entrance serving the kitchen. The wording suggests that a side entrance may have been contemplated as part of the kitchen works before the extension was formally completed.

The quotation does not conclusively establish that the building was intended to be a separate dwelling. A side entrance may serve an extension or ancillary accommodation without creating a separate planning unit. Nevertheless, when considered alongside the independent staircase arrangement and commencement of short-term letting six days after completion, it adds weight to the possibility that the unit was designed or fitted out for independent occupation during construction.

This should therefore be afforded moderate weight. It is more significant as part of the overall chronology than it would be if considered in isolation.

Holiday-letting evidence

The booking records provide strong evidence that the accommodation was available for and subject to occupation independently of the main house from 7 July 2022. The listing advertised an entire home with its own entrance, kitchen, lounge and bathroom, while the booking records identify periods of occupation between July 2022 and February 2023.

That material supports the proposition that the unit was functionally self-contained very shortly after completion. It also undermines any suggestion that it remained in ordinary ancillary use for an appreciable period after construction.

Whether the use of the property for short-term holiday accommodation represents a material change of use in its own right is a matter of fact and degree, having regard to

the character of the building, the nature and intensity of the use, the effect on the surrounding area and the extent to which the use differs from ordinary residential occupation.

The submitted information indicates that the accommodation was marketed and occupied as short-term visitor accommodation, with stays ranging between approximately 9 and 30 days. The property was advertised as an "entire" unit and guests were able to independently access the accommodation through a key lockbox arrangement. The evidence suggests a regular turnover of occupants, with guests arriving and departing at varying times of the day and night, carrying luggage and other possessions to and from the property. Such a pattern of occupation differs from the more settled and predictable pattern ordinarily associated with occupation of a dwellinghouse as a person's main home.

The frequency and regularity of changes in occupancy would be likely to result in a greater intensity of activity than would typically arise from occupation by a single household. The transient nature of the occupation, combined with the regular arrival and departure of visitors, has the potential to generate activity and disturbance that would not normally be associated with a conventional residential use. On the evidence available, the use appears to have functioned as commercial short-stay visitor accommodation rather than as occupation by a permanent resident or household. The pattern of occupation is therefore materially different from the use of the property as either accommodation ancillary to the host dwelling, or as an independent Class C3 dwellinghouse occupied as a person's sole or main residence.

Consequently, on the balance of probability and having regard to the particular facts of this case, the Council considers that the use of the property for short-term holiday letting constituted a material change of use to short-stay visitor accommodation. As such, the holiday-let use cannot automatically be regarded as equivalent to use as an independent Class C3 dwellinghouse and should be assessed as a separate planning use in its own right.

Residential tenancies and statutory declarations

The assured shorthold tenancy agreements provide strong evidence of occupation as a separate dwellinghouse from March 2023 onwards. The later tenants' statutory declarations also provide direct evidence of independent residential occupation from January and April 2024 respectively.

The evidence carries substantial weight for the periods it covers.

Utility accounts and services

No separate utility bills or evidence of separately metered services have been provided.

This is an evidential gap, but it carries limited weight. A separate dwelling may share water, electricity, heating, drainage or internet services with another dwelling. Rent may

also be inclusive of utilities. Separate metering is not a prerequisite for the formation of a separate planning unit.

Conversely, shared services may be relevant when considered with other evidence of physical and functional integration. The absence of separate utility accounts should therefore be recorded but should not form a principal basis for the decision.

While there is no mention of utilities in the tenancy agreements, this does not in itself show that the occupiers relied on the principal dwelling for their day-to-day needs.

Postal address

The existence or absence of a separate postal address is not determinative of the planning status of the accommodation.

In this instance, there is no separate Royal Mail postal address for the building. However, while a postal address may corroborate separate occupation, it does not create a separate planning unit. Equally, an independently occupied dwelling may exist without a separate Royal Mail entry. This evidence should therefore be afforded limited weight.

Garden and external separation

At the site visit, the accommodation had access to an area of external space enclosed from the principal rear garden. The site photograph shows fencing and a decked area associated with the unit.



Figure 7: Planning Officer site visit photograph dated 26 August 2026

The enclosure appears relatively informal and retains a gap or connection into the larger garden. No dated evidence establishes when the fencing or separate amenity area was created.

This evidence has moderate relevance. The garden arrangement is compatible with the accommodation functioning independently at the application date, but it does not demonstrate that a clearly defined separate planning unit had existed since 7 July

2022. The informal and potentially evolving arrangement may indicate progressive physical separation rather than a single identifiable change at the date claimed.

The retained physical links and shared frontage do not prevent the formation of a separate planning unit, but they reduce the evidential value of the garden as proof of the date of separation.

Overall evidential assessment

There is strong evidence that:

- the building work was completed by early July 2022;
- the accommodation was physically self-contained and available for independent short-term occupation by 7 July 2022;
- it was subject to subsequent residential tenancies; and
- it currently functions as a separate planning unit.

There is also strong circumstantial evidence that the accommodation may have been physically arranged for independent occupation before, or by, the date of Building Control completion. That evidence includes:

- the six-day interval between completion and the first booking;
- the unexplained independent staircase configuration;
- uncertainty concerning whether the approved internal connections were constructed;
- the June 2022 reference to a kitchen side entrance; and
- the immediate marketing and occupation of the completed unit as an entire self-contained property.

Against this, the evidence that the extension was first completed and used as accommodation forming part of, or ancillary to, the principal dwelling is comparatively weak. It consists principally of:

- the planning and Building Regulations descriptions referring to an extension;
- the owner's account that an internal doorway was subsequently sealed; and
- a photograph said to show an infilled opening.
- the owner's statutory declaration states that the approved two-storey extension was completed and signed off by Building Control on 1 July 2022.

These matters are relevant, but they do not establish the complete physical arrangement at completion or demonstrate that the accommodation ever operated as part of the host dwelling before separate occupation commenced.

The absence of separate utility accounts, a clearly separate postal address or a fully enclosed garden carries limited weight and would not, individually or collectively, justify refusal. The central evidential deficiency is instead the absence of clear and unambiguous evidence demonstrating the claimed transition from an authorised extension or ancillary accommodation to a separate dwellinghouse.

Conclusion:

On the evidence presently before the Council, the applicant has demonstrated that the accommodation now functions as a separate residential unit and that it was occupied independently very shortly after the building work was completed.

However, the applicant has not demonstrated, on the balance of probability, that the extension was first completed as part of, or as accommodation ancillary to, the principal dwellinghouse and subsequently underwent the material change of use relied upon in the application.

The proximity between Building Control completion on 1 July 2022 and the first short-term occupation on 7 July 2022, together with the staircase arrangement, side entrance reference and lack of evidence showing the approved internal connections, gives rise to a distinct and credible alternative explanation. Namely, that the accommodation was constructed, fitted out and brought into use as a self-contained unit from the outset.

It is not necessary for the Council to establish conclusively that this alternative explanation is correct. The burden rests with the applicant. Given the unresolved matters concerning the building's configuration at completion and the absence of sufficiently precise evidence identifying when and how the alleged change from ancillary accommodation occurred, the applicant's account is not sufficiently clear and unambiguous to justify the grant of a certificate.

The Council cannot therefore be satisfied that the development falls within the former four-year immunity period applicable to a material change of use to a single dwellinghouse.

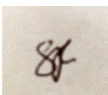
Furthermore, even if the Council were satisfied that the extension had originally been constructed as part of, or ancillary to, the principal dwellinghouse and was only subsequently converted into a separate planning unit, a further evidential difficulty remains. The evidence indicates that the accommodation was initially occupied as short-term holiday accommodation between July 2022 and February 2023, rather than as a dwellinghouse occupied as a person's sole or main residence. For the reasons set out above, the Council considers that the pattern of occupation during that period, characterised by short-duration stays, regular turnover of guests and use as commercial visitor accommodation, was materially different from occupation as an independent Class C3 dwellinghouse. Consequently, even if a material change of use from ancillary accommodation to a separate unit could be established, the evidence does not demonstrate that the accommodation was continuously used as a Class C3 dwellinghouse throughout the claimed four-year immunity period. At the very least, the evidence raises significant doubt as to whether the use relied upon in the application, namely use as a single dwellinghouse, had been established by July 2022 and then continued without material interruption for the requisite period.

Recommendation:

The application is recommended for **refusal**. The applicant has failed to demonstrate, on the balance of probability, that the accommodation was completed and initially formed part of, or was ancillary to, the principal dwellinghouse before undergoing a material change of use to a separate single dwellinghouse. The evidence does not establish the physical arrangement of the building at completion, the date upon which the current independent staircase and access arrangements were created, or when the accommodation first became a separate planning unit. Consequently, it has not been demonstrated that the use described in the application became immune from enforcement under the former four-year period in section 171B(2) of the Town and Country Planning Act 1990.

The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

Date:	10 September 2026
Earliest date for decision:	16 September 2026
Recommendation agreed by: (Authorised Officer)	Refusal 
Date:	7.10.26