

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	260845
Site Address:	65 Woodward Close, Winnersh, Wokingham, RG41 5UU
Expiry Date:	15 June 2026
Site Visit Date:	11 June 2026
Proposal: Application for a certificate of existing lawful development for the garage conversion to create habitable accommodation.	

PLANNING HISTORY

Application No.	Description	Decision & Date
22653	Development of 150 homes with access roads and open spaces	Outline- Approved 29 th May 1986
31730	Erection of 94 dwellings with garages. Also access road and footpaths	Approved November 1988
110940	Proposed erection of single storey rear extension to dwelling. (Removal of existing conservatory)	Approved 15 th November 2011

Site description

The application site features a two-storey detached dwelling with associated parking and landscaping located within a predominantly residential area of Winnersh Wokingham

There are no listed buildings at the site and the property is not within a Conservation Area or other 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order 2015).

The site is subject to wildlife and habitat designations being located in an area that holds the potential to support bat roosts.

Legislation

Town and Country Planning Act 1990 (as amended) (TCPA)

Section 55(1) of the TCPA 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 TCPA requires that planning permission is required for the carrying out of any development of land.

Section 171B (1) of the TCPA 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 in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed. It is important to note that on the 24th of April 2024, the TCPA referred to 4 years and not 10, and the legislation was updated to 10 years on the 25th of April 2024.

Section 171B (2) states that where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of, in the case of a breach of planning control in England, ten years beginning with the date of the breach. The applicant is required to demonstrate on the balance of probabilities that the use commenced and has been continuous for 10 years prior to the date of application in order for the change to have become lawful. It is important to note that on the 24th of April 2024, the TCPA referred to 4 years and not 10, and the legislation was updated to 10 years on the 25th of April 2024.

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 *Gabbittas 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.

INFORMATION PROVIDED

By the applicant:

- Lawful Development Certificate Application Form
- GL.004A- Block Plan
- GL.005 Location Plan
- GL.002A Existing Ground Floor Plan
- GL.003A Proposed Ground Floor Plan
- GL.001B Existing Front Elevation
- Invoice of the works (dated 01/11/12)
- Various site photographs of internal utility room

By the Council:

- Original application decision notice dated 18/11/1988 and approved plans
- Historic image from Google Street-view dated October 2008, March 2009, September 2012 and July 2025 showing the garage door with no changes to external elevations
- Site photos from the Officer Site Visit 11/06/26

By third parties:

- No evidence submitted

APPRAISAL

The evidence submitted by the applicant indicates that the rear part of the garage was converted to a utility room in 2014 and has been used for that ancillary residential purpose since that time.

There is no condition attached to the original planning permission restricting the use of the garage. The conversion of part of the garage to habitable accommodation ancillary to the dwelling does not therefore breach any planning condition. The works are internal and do not constitute development for the purposes of section 55 of the Town and Country Planning Act 1990. There has also been no material change of use. Accordingly, the conversion of part of the garage, as described, did not require planning permission, regardless of the length of time for which the use has occurred. For these reasons, the development described in the application is lawful.

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.

RECOMMENDATION

The relevant test for Lawful Use is the 'balance of probability'. Based on the evidence provided and the Local Planning Authority's own information, it is considered to have been demonstrated that, the partial conversion of the garage into a utility room was completed in 2014 and this use has been occurring for a consecutive period of over 10 years. It is therefore considered that the application of a certificate of existing lawful use should be approved.

Date:	11 June 2026
Earliest date for decision:	12 May 2026
Recommendation agreed by: (Authorised Officer)	Approve <i>MC</i>
Date:	12.06.2026