

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	261505
Site Address:	24 Delamere Road, Earley, Wokingham, RG6 1AP
Expiry Date:	4 September 2026
Site Visit Date:	21 April 2026
Proposal: Application for a Certificate of Lawfulness for Existing Use or Development in respect of the single-storey side and rear extensions, the ground-floor rear extension, first floor side extension, dormer extension and loft conversion, and the alteration and physical connection of the former outbuilding to the main dwelling, together with its use as part of the same dwellinghouse.	

PLANNING HISTORY

Application No.	Description	Decision & Date
260404	Householder application for the proposed erection of rear dormer extension and modification of main roof from hipped to gabled formation.	Application Withdrawn 21 st April 2026
132425	Application for variation of condition 4 of planning consent F/2011/2645 to allow enlarged dormer to rear elevation.	Approved 22 nd March 2013
111646	Erection of a first-floor side extension and loft conversion to include dormer window.	Approved 16 th March 2012
061870	Proposed erection single storey side and rear extension to dwelling. Amendment to consent 050562. Retrospective	Application Withdrawn
050562	Proposed single storey side and rear extensions to dwelling.	Approved 8 th December 2005
052470	Proposed two storey side extension plus single storey front and rear extensions to dwelling.	Refused 6 th July 2005
031069	Proposed single storey side extension to dwelling.	Approved 15 th July 2003

SITE DESCRIPTION

The site is a semi-detached house on a residential road in Earley.

The application seeks to establish the lawfulness of the existing operations and, insofar as included within the application, the use identified in the proposal description and shown on Drawings P2609-01 to P2609-03. The application arises because elements of the development as built are stated not to accord fully with the relevant approved drawings. The precise operations under consideration are assessed separately below.

The application has been submitted because elements of the development as constructed do not fully correspond with the relevant approved drawings. The lawfulness of each area shown on Drawing P2609-02 is therefore assessed separately below by reference to the particular operations undertaken and the date on which they were substantially completed.

LEGISLATION

Town and Country Planning Act 1990 (as amended)

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 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 beginning with the date on which the operations were substantially completed.

Section 115 of the Levelling-up and Regeneration Act 2023 amended section 171B so that a ten-year enforcement period generally applies. However, regulation 5 of the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 provides that the amendment does not apply where operational development was substantially completed before 25 April 2024. The former four-year enforcement period therefore applies to any operations demonstrated to have been substantially completed before that date.

Any distinct material change of use falling outside the former section 171B(2) must be assessed under the applicable ten-year period. It is therefore necessary to distinguish the physical alteration and connection of Area C from any separate material change of use alleged in relation to that accommodation.

Section 191 deals with applications for Certificate of Lawfulness for Existing Use or 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.

For the operational development, the relevant questions are whether the works shown on the certificate plan constitute the operations claimed and, if so, when each operation was substantially completed. Continued use of the resulting rooms is not necessary to establish immunity for completed operational development.

INFORMATION PROVIDED

By the applicant:

1. **Appendix 1:** *Location Plan and Block Plan* numbered P2609 – 01 and dated June 2026
2. **Appendix 2:** *Existing Plans* numbered P2609 – 02 and dated June 2026
3. **Appendix 3:** *Existing Elevations* numbered P2609 – 03 and dated June 2026
4. **Appendix 4:** *Planning Statement by AM2 Planning*. The statement confirms:
 - *Single Storey Side and Rear Extension (Extension A)*: Planning permission was initially granted for a single storey side and rear extension under reference 050562. A further retrospective application, reference 061870, was later submitted in relation to amendments to the 2005 permission. Although the retrospective application was withdrawn, the applicant states that the submitted plans and description indicate that it related to the side and rear extension now in place. The applicant acknowledges minor differences between the approved drawings and the completed works, including the roof form over the garage, but states that the works were substantially carried out during 2005–2006 and completed in 2008.

A boundary discrepancy shown on the 2006 plans appears to have arisen following changes to planting and the assumed boundary line after the

extension was built. The applicant considers that this issue is not relevant to the current Certificate application, because the key matter is whether the extension has been in place for more than 10 years.

Officer comment: The Land Registry title plan and application-site boundary have been reviewed. The Council is satisfied that the operations to be certified fall within the land edged red on Drawing P2609-01. The historic discrepancy does not alter the identity or extent of the development subject to this application.

- Further evidence is provided by a Google Earth aerial image dated October 2008, which the applicant states show Extension A in place.
- *Extension B – Rear Extension and Roof Works:* Relates to the ground floor rear extension, now shown as the dining room, together with first and second floor roof extensions providing additional upper-floor accommodation. Planning permission was granted under reference 111646 for a first-floor side extension and loft conversion, including a rear dormer window. A variation of that permission was approved under 132425 to allow a larger rear dormer window. The applicant states that the approved works were built in accordance with the plans and completed in 2014.

Officer comment: Evidence indicates that the side extension was not built in accordance with the approved plans, being positioned closer to the boundary than shown on the approved drawings.

Further evidence is provided by a Google Earth aerial image dated 2014 that is not clear but the applicant states that the rear dormer, hipped roof side extension and ground floor rear addition can be identified. A clearer 2017 image is also included to confirm the features visible in the earlier photograph.

- *Works C – Outbuilding Linked to the Main House:* Relates to the former outbuilding now connected with and used as part of the main house. The applicant states that when the side and rear extensions were constructed between 2006 and 2008, the works physically linked the outbuilding to the dwelling, with part of the outbuilding removed to enable the extension to be built. The applicant states that Google Earth aerial photography shows the outbuilding in place in 2004 and confirms that, by reference to the 2008 and 2014 images, it has related to the main house for more than 10 years.
 - The applicant states that the owners have occupied the site for more than 10 years and could provide a letter or affidavit confirming that the relevant elements of development have been in place for that period.
5. **Appendix 5: Statement Appendix A:** Floor plan, site plan and location plan for Proposed extension 24 Delamere Road dated and stamped “*Building Control 15th June 2006 Revised Plan.*”
 6. **Appendix 6: Statement Appendix B:** Proposed Plans and Elevations for First Floor Side Extension and Loft Conversion 24 Delamere Road numbered 0322 – 03 Rev C dated October 2011.

7. **Appendix 7:** *Appendix C:* Invoice from H & J Builders Ltd for construction of orangery extension total £49,600. Addressed to Mr Iqbal 24 Delamere Road and dated 16/02/2014.
8. **Appendix 8:** Sworn Affidavit submitted by Khalil Iqbal, the owner of 24 Delamere Road, Earley and dated 30th August 2026 confirming:
- Mr Iqbal has owned and had personal knowledge of the property since 2006.
 - The side and rear single-storey extensions (labelled A on Drawing P2609-02) were completed in 2008 and have continuously formed part of the dwelling since then.
 - The ground floor rear extension and the first and second floor roof extensions (labelled B on Drawing P2609-02) were completed by 2014 and have continuously formed part of the dwelling since that time.
 - The former outbuilding (labelled C on Drawing P2609-02) was altered and connected to the main house by 2014, and the resulting accommodation has continuously formed part of the dwelling since then.
 - The owner confirms that no enforcement action has been taken by the Local Planning Authority in relation to any of these extensions or the use of the dwelling during the period he has lived at the property.

By the Council:

- Planning History Records (see above)
- Enforcement History Records:
 - No Enforcement Notices relating to the application site.
- Land Registry Title Plan BK301795.
- The case officer inspected the site on 21 April 2026 in connection with the preceding householder application 260404. The observations and photographs from that visit have also been considered insofar as they show the physical state of the site relevant to this certificate application.
- Site visit photos (21/04/2026).



Figure 1 Site visit photo taken 21/04/2026



Figure 2 Site visit photo taken 21/04/2026



Figure 3 Site visit photo taken 21/04/2026



Figure 4 Site visit photo taken 21/04/2026

- Google Earth/Streetview timeline 2009 - 2018



Figure 5 Google Earth Street View 03 2009 showing garage with dummy pitch roof to front that differs from approved plans ref 050562.



Figure 6 Google Earth Street View 03 2009 showing garage with flat roof and dummy pitch roof to front that differs from approved plans ref 050562.

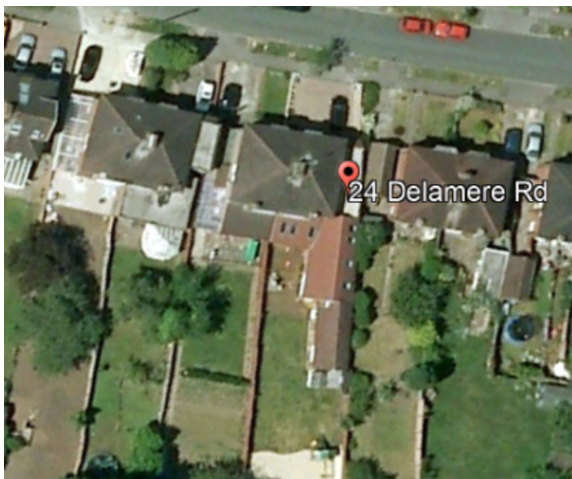


Figure 7 Google Earth 30/05/2009 shows ground floor rear extension, single storey side extension, and outbuilding

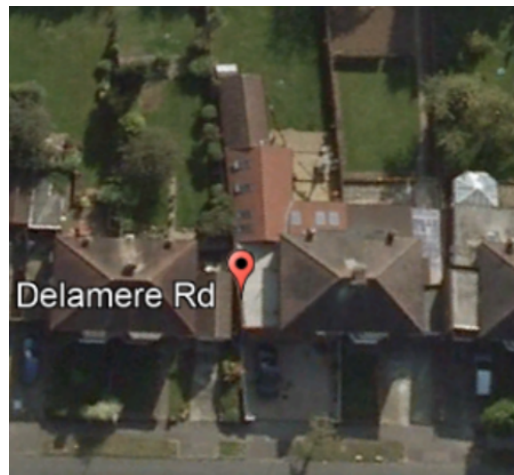


Figure 8 Google Earth 28/09/2008 shows garage flat roof.



Figure 9 Google Earth 25/03/2017 showing first-floor side extension and loft conversion.



Figure 10 Google Earth 25/07/2018 showing first-floor side extension and loft conversion.

By third parties:

- Earley Town Council have commented that they raise no objection to this application.

APPRAISAL

The application is for a Certificate of Lawfulness for Existing Use or Development to regularise single storey side and rear extensions (completed in 2008), rear floor ground extension and works to the roof, and accommodation in the roof (completed in 2014), and an outbuilding, being connected with, and used as part of main house (completed in 2008).

In determining a Certificate of Lawfulness for Existing Use or Development a Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. Lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. In this case, the operational development is stated to have been substantially completed before 25 April 2024. Accordingly, the transitional provisions apply and the former four-year enforcement period is relevant. The Council must therefore determine, on the balance of probability, whether each identified operation was substantially completed more than four years before the date of the application and whether any enforcement notice remains in force.

In relation to Area C, a distinction must be drawn between the physical alteration and connection of the former outbuilding (operational development) and any alleged material change of use. The former falls to be considered against the applicable enforcement time limit. The latter only requires consideration if the facts demonstrate a separate material change in the planning unit or character of use.

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 for Existing Use or Development. 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.”

The Applicants Evidence:

Area A

Area A comprises the single-storey side and rear extension as constructed, including its siting relative to the side boundary and the flat roof with a pitched roof feature to the front. These characteristics differ from the development shown on the drawings approved under planning permission 050562. The evidence relating to the historic position of the side boundary has also been considered. For the purposes of this application, the relevant question is the lawfulness of the operations carried out within the land identified on the certificate plan. The Council is satisfied that any uncertainty regarding historic fencing or vegetation does not affect identification of the operational development subject to this application.

The affidavit and Planning Statement state that Area A was completed in 2008. This is supported by Google Earth imagery dated 28 September 2008 and 30 May 2009 and Street View imagery dated March 2009, which show the single-storey extension and its roof form in place.

Taken together, the evidence demonstrates, on the balance of probability, that the operations comprising Area A, in their present form, were substantially completed by March 2009 at the latest. They were therefore substantially completed before 25 April 2024 and more than four years before the date of the application. No enforcement notice is in force in respect of those operations.

Area B

Area B comprises the ground-floor rear extension, the first-floor side extension and the roof alterations, including the rear dormer, as shown in their existing form on Drawing P2609-02 and the corresponding elevations on Drawing P2609-03. The first-floor side extension is positioned closer to the side boundary than shown on the drawings approved under planning permissions 111646 and 132425. The assessment therefore relates to the development as constructed and does not constitute a finding that the earlier permissions were implemented in full accordance with their approved drawings.

The affidavit and Planning Statement state that the Area B works were completed by 2014. The builder’s invoice dated 16 February 2014 provides supporting evidence of construction activity, although the invoice does not, in isolation, establish the date of substantial completion. The 2014 aerial imagery is of limited clarity, but it is consistent with the applicant’s account. Clearer imagery dated 25 March 2017 confirms that the first-floor side extension and roof works were in place by that date.

Having considered the sworn affidavit, Planning Statement, invoice and photographic evidence together, the Council is satisfied on the balance of probability that the

operations comprising Area B were substantially completed by 25 March 2017 at the latest. The works were therefore substantially completed before 25 April 2024 and more than four years before the date of the application. No enforcement notice is in force in respect of those operations.

Area C

Area C comprises the physical alteration of the former outbuilding and its connection to the main dwelling, together with the use of the resulting accommodation as an integral part of the same dwellinghouse.

The affidavit states that the former outbuilding had been altered and connected to the main dwelling by 2014 and that the resulting accommodation has continuously formed part of the dwelling since that time. The aerial imagery confirms the presence of the outbuilding but does not, by itself, establish the date of the internal alterations or physical connection. However, the sworn evidence must be considered together with the submitted plans, the configuration observed during the site visit and the absence of any contradictory evidence. The plans and site observations indicate that the accommodation is physically connected to and accessed from the main dwelling. No evidence has been provided indicating separate occupation, separate primary access, independent facilities sufficient to establish a separate planning unit, or any other characteristics typically associated with a self-contained residential unit.

On the balance of probability, the Council is satisfied that the physical operations comprising the alteration and connection of Area C were substantially completed by 2014. They were therefore completed before 25 April 2024 and more than four years before the date of the application.

The submitted evidence describes Area C as accommodation that is functionally integrated with and used as part of the dwellinghouse known as 24 Delamere Road. There is no evidence that Area C comprises, or has been occupied as, a separate self-contained dwelling or independent planning unit. On the facts of this case, its use as part of the same dwellinghouse has not resulted in a material change in the character of the use of the planning unit. That use is therefore lawful and does not depend upon the expiry of a ten-year enforcement period.

Conclusion

The submitted affidavit provides sworn evidence concerning the dates by which the operations within Areas A, B and C were completed. That evidence is supported, to differing degrees, by the planning history, approved and existing plans, historic imagery, the builder's invoice, the site inspection and the Council's records. No evidence has been identified that contradicts or materially undermines the applicant's account.

On the balance of probability, the Council is satisfied that the operational development identified as Areas A, B and C on Drawing P2609-02, and shown in further detail on Drawing P2609-03, was substantially completed before 25 April 2024 and more than four years before the date of the application. No enforcement notice is in force in respect of those operations. The operations are therefore lawful for the purposes of section 191(2) of the Town and Country Planning Act 1990.

The Council is also satisfied that the accommodation within Area C is physically and functionally integrated with the dwellinghouse known as 24 Delamere Road. Its use forms part of the use of the site as a single dwellinghouse and has not resulted in a material change in the character of the use of the planning unit. The certificate does not authorise Area C as a separate dwellinghouse or independent planning unit.

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: Grant a Certificate of Lawfulness for Existing Use or Development

On the balance of probability, the evidence demonstrates that:

1. the operational development identified as Areas A, B and C on Drawing P2609-02 and shown on Drawing P2609-03 was substantially completed before 25 April 2024 and more than four years before the date of the application;
2. no enforcement notice is in force in respect of those operations; and
3. the accommodation within Area C is used as an integral part of the single dwellinghouse known as 24 Delamere Road and does not constitute a separate dwellinghouse or independent planning unit.

The certificate relates only to the development and use precisely identified on the approved certificate plans. It does not confirm that planning permissions 050562, 111646 or 132425 were implemented in full accordance with their respective approved drawings.

Date:	01 September 2026
Earliest date for decision:	24 July 2026
Recommendation agreed by: (Authorised Officer)	
Date:	02/09/26