



Appeal Decision

Site visit made on 19 March 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 30th March 2026

APP/C3240/X/25/3363237

The Bungalow, Red Lees, Telford TF1 5DF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against a refusal by Telford and Wrekin Council to grant a certificate of lawful use or development.
- The appeal was made by Mr Adam Brittle.
- The application, No.TWC/2024/0596, was made on 25 July 2024 under s.191(1)(a) of the Act. It was refused by a notice dated 30 September 2024.
- The Application for a Certificate of Lawful Development, (LDC), was for: Use of land as part of garden to the dwelling at The Bungalow, Red Lees, Telford TF1 5DF.

Summary of decision: The appeal is allowed and a certificate of lawful use is issued in the terms set out below in the Formal Decision.

Appeal property and application

1. The appeal property, The Bungalow, Red Lees, is a large dormer single storey house set back from the roadway Red Lees. The house is at the southern corner of its associated land, accessed along its driveway. A large triangular area of lawn lies to the west and north of the dwelling. This area is the subject of the application by the Appellant Mr Adam Brittle for a certificate of lawfulness to confirm its use as garden land to the house.
2. Another large single story house, Champions Ridge, and its sizable garden lie immediately to the south-west of The Bungalow, accessed by a driveway running alongside the application land to The Bungalow. Mr Brittle said it was his understanding that the titles to Champions Ridge and The Bungalow, (Titles SL82975 and SL154364), were purchased by his parents and grandparents in 1984 as one piece of land. His parents were the titleholders to The Bungalow; his grandparents were the registered proprietors of Champions Ridge.
3. Mr Brittle said that in 2003 The Bungalow was separated from the original title and registered in his parents' names. The Bungalow Title of 2004 shown on Title SL154364 included the dwelling and all the land shown on the LDC application plan. It was Mr Brittle's case that the large grassed area of land to the north-west of the dwelling The Bungalow, had been used as an extension of the existing garden and maintained as one garden for himself and Renette Brittle since 2009. He submitted a Statutory Declaration to that effect.
4. The Council pointed to an apparent inconsistency in Mr Brittle's evidence. A previous application was submitted in February 2024. That sought a certificate of existing lawful use for the 'change of use from private open land to private garden land and driveway', (the same description as this appeal). However, the address given for that application was 'Champions Ridge'. Mr Brittle had submitted a planning statement and statutory declaration which said the land had been used as private garden land for 'Champions Ridge' for a continuous 10-year period. Officers noted

that the document stated that the parcel of land subject to the application had been used as private garden land for both Champions Ridge and The Bungalow. As the site address given was only 'Champions Ridge', the Council said they would be unable to grant the certificate to confirm that the parcel of land was private garden land for 'Champions Ridge', where the declaration had clearly stated that it had been used by both properties.

5. The Council said the 2024 application was submitted under the address of The Bungalow. The attached planning statement and statutory declaration contradicted the statements made in the previously submitted declaration, now referring to the parcel of land being used by The Bungalow.
6. I agree with the Council that some inconsistency arises. It may be that as the same family have owned both Champions Ridge and The Bungalow for many years, it is possible that some sharing of land within each title could have taken place, or that errors of recollection may have caused apparent contradictions in statutory declarations. What I consider to be the case is that the submitted evidence, including a number of historic photographs, show that the use of all the land outlined in red on the application plan has been used as private garden land for more than 10 years. That it is part of the land attached to The Bungalow rather than Champions Ridge seems more logical in view of the layout of the 2 dwellings and their surroundings.
7. I am not much persuaded by the thought that a significant or material change of use of land affecting their respective planning units has taken place within the applicable 10 years period that might adversely affect my decision to allow this appeal. In arriving at that decision, I have applied the standard of proof for the determination of the application on the "balance of probabilities" rather than the higher criminal standard of "beyond reasonable doubt", (*Thrasyvoulou v SSE* [1984] JPL 732), which the Council said they applied.
8. Also, I note that in *Gabbittas v SSE & Newham LBC* [1985] JPL 630, the Court held that the evidence of an application should not be rejected simply because it is not corroborated. If there is no evidence to contradict or make the applicant's version of events less than probable and his evidence alone is sufficiently precise and unambiguous, the Certificate should be granted.

Conclusion

9. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development on the application made for a Certificate of Lawful Development for: Use of land as part of garden to the dwelling at The Bungalow, Red Lees, Telford TF1 5DF, was not well founded and that the appeal should succeed. I exercise the powers transferred to me by s.195(2)(a) of the Act accordingly and I issue a Certificate of Lawful Development for the development as applied for. It is attached to this decision, as is a plan submitted with the application.

John Whalley

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192 (as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995: ARTICLE 24

IT IS HEREBY CERTIFIED that on 25 July 2024 the development described in the First Schedule hereto in respect of the premises specified in the Second Schedule hereto, was lawful within the meaning of section 192(1)(b) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The Use of land as part of garden to the dwelling at The Bungalow, Red Lees, Telford TF1 5DF has become lawful by the passage of time.

John Whalley

INSPECTOR

Date: 30th March 2026

Reference: APP/C3240/X/25/3363237

First Schedule

The Use of land as part of garden to the dwelling

Second Schedule

The Bungalow, Red Lees, Telford TF1 5DF

IMPORTANT NOTES OVERLEAF
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 development described in the First Schedule and specified in the Second Schedule would have been lawful on the certified date and thus would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the development described in the First Schedule and specified in the Second Schedule and identified on the attached plan. Any development materially different from that described, or which relates to any other land, may result in a breach of planning control that is liable to enforcement action by the Local Planning Authority.
4. The effect of the Certificate is subject to the provision in Section 191(6) of the 1990 Act, as amended, which states that the lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

Lawful Development Certificate Plan

Appeal reference: APP/C3240/X/25/3363237 Date: 30th March 2026

The Bungalow, Red Lees, Telford TF1 5DF



Drawing No. A3

Plan attached to the Lawful Development Certificate - No scale

John Whalley

INSPECTOR