



Appeal Decision

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2026

Appeal Ref: APP/V1260/X/25/3362377

The Barn, 41A Burley Road, Christchurch BH23 7AJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Ian Kendall against the decision of Bournemouth Christchurch and Poole Council.
 - The application ref 8/23/0675/CLE, dated 17 September 2023, was refused by notice dated 27 September 2024.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which a certificate of lawful use or development is sought is described as: The existing conservatory to the West Elevation of 41a Burley Road and internal alterations to provide a Bedroom and Bathroom.
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Summary of Decision

1. The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.

Preliminary Matter

2. The appellant accepts that it is not essential for me to enter the site to check measurements or other relevant facts. On that basis, and given the relevant matters in dispute, injustice does not arise from an assessment on the written evidence only.

Main Issue

3. The main issue is whether the Council's refusal to grant a certificate of lawfulness is well founded.

Reasons

4. The site relates to a detached dwelling. In matters such as this the onus is firmly on the appellant to demonstrate their case on the balance of probabilities that the construction of a conservatory to the west elevation as well as internal alterations are lawful owing to the passage of time. My assessment is therefore fact specific, based upon the evidence before me.
5. The appellant contends the conservatory and internal alterations were substantially complete in 2015. The Council accepts that the conservatory has existed for a period of 4 years or more, being the relevant period for lawfulness in this case, and as a planning application to retain it was refused in 2020, and no enforcement action was subsequently taken.

6. The Council is then concerned that the conservatory is situated outside of the lawful curtilage of the dwelling. That however is not relevant to the assessment of whether the conservatory is lawful owing to the passage of time.
7. As a matter of fact and degree the internal alterations, described as the provision of a bedroom and a bathroom, are unlikely to amount to development for the purposes of Section 55 of the Act, but I have little evidence as to why they could not nevertheless be certified.
8. As a matter of fact and degree the appellant has therefore demonstrated their case on the balance of probabilities and the ability of the Council to take successful enforcement action has therefore expired. My assessment however does not relate to or certify the extent of any curtilage or residential use of land, as that was not applied for as part of the appeal application.

Conclusion

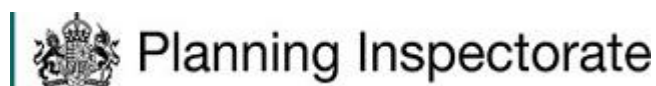
9. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawfulness was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

10. The appeal is allowed and attached to this decision is a certificate of lawfulness describing the existing development which is considered to be lawful.

Paul T Hocking

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 17 September 2023 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, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The appellant has demonstrated their case on the balance of probabilities.

Signed

Paul T Hocking

Inspector

Date: **9 September 2026**

Reference: APP/V1260/X/25/3362377

First Schedule

The existing conservatory to the West Elevation of 41a Burley Road and internal alterations to provide a Bedroom and Bathroom.

Second Schedule

The Barn, 41A Burley Road, Christchurch BH23 7AJ

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: **9 September 2026**

by **Paul T Hocking BA MSc MRTPI**

Land at: The Barn, 41A Burley Road, Christchurch BH23 7AJ

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Scale: DO NOT SCALE

