



Appeal Decision

Site visit made on 24 August 2026

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 September 2026

Appeal Ref: APP/C4235/X/26/3377419

The Grange Farm, 172 Strines Road, Strines, Stockport SK6 7GA

- 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 BoomoGrace Property Ltd against the decision of Stockport Metropolitan Borough Council.
 - The application ref DC/097350, dated 22 October 2025, was refused by notice dated 18 December 2025.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is a single dwelling.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

3. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use was lawful at the time of the LDC application. A development is lawful under the provisions of section 191(2)(a) and (b) of the Town and Country Planning Act 1990 (the Act) if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired; and, providing it does not constitute contravention of any requirement of any enforcement notice then in force. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous.

4. Section 171B of the Act, as amended, states:

Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of -

(a) in the case of a breach of planning control in England, ten years beginning with the date of the breach

5. However, transitional provisions set out in Statutory Instrument 2024/452, at Regulation 5, state:

(5) The amendments made to the 1990 Act by section 115 of the 2023 Act (time limits for enforcement) do not apply where—

(a) in respect of a breach of planning control referred to in section 171B(1) of the 1990 Act (time limits), the operations were substantially completed, or

(b) in respect of a breach of planning control referred to in section 171B(2) of the 1990 Act (time limits), the breach occurred,

before the day on which that section comes into force.

6. Therefore, where a material change of use to a single dwellinghouse occurred before 25 April 2024, the former four-year immunity period remains applicable by virtue of the transitional provisions. Accordingly, the relevant date in this case is 22 October 2021, being four years prior to the application date, rather than 24 April 2020 as argued by the Council.
7. *Burdle*¹ established that the planning unit is the unit of occupation unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes. Bridge J suggested three broad categories of distinction: 1) a single planning unit where the unit of occupation is used for one main purpose and any secondary activities are incidental or ancillary; 2) a single planning unit that is in a mixed-use because the land is put to two or more activities and it is not possible to say that one is incidental to another; and 3) the unit of occupation comprises two or more physically separate areas that are occupied for different and unrelated purposes. In such a case, each area used for a different main purpose, together with its incidental activities, ought to be considered as a separate planning unit.
8. The building is situated adjacent to the substantial main dwelling, with both properties sharing a common driveway and parking area. Together with a large outbuilding, the two dwellings form an intimate courtyard arrangement. However, each structure remains physically detached. There appears to be no dedicated parking provision or private outdoor amenity space associated exclusively with the appeal property. Nevertheless, it is not uncommon for separate residential properties, particularly within larger estate settings, to share access arrangements, parking facilities and amenity space whilst remaining independent planning units.
9. The Council do not dispute the statutory declarations confirming that the appeal property was occupied by Mr Sherratt and his family as their main residence from 17 April 2021 to 17 November 2024 and that Ms Annie Grainger occupied it as her sole and main residence from 10 December 2024 to the present day. Although there was a short break between the first occupants moving out and the subsequent occupier taking up residence, I do not consider that this amounted to a break in the continuity of the use of the property.
10. The statutory declarations of both of these occupants state the appeal building was a self-contained residential property with all the facilities required for day-to-day living. This is supported by tenancy agreements, gas safety records, service bills and personal correspondence from tenants addressed to the property. The

¹ *Burdle & Williams v SSE & New Forest RDC* [1972] 1 WLR 1207

Council confirm that, post 17 April 2021, they have no evidence to the contrary regarding the tenancy of the building and its occupation by a separate household from the main dwelling. I also note the Council's finding that 'use and context of The Cottage/ Flat B up until April 2021 was ancillary to the host dwelling', suggesting that it was not considered to be ancillary following this date.

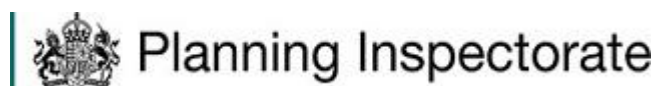
11. The occupation of the appeal building by a separate household from 17 April 2021 was not merely ancillary to the occupation of the main dwelling but, as a matter of fact and degree, constituted occupation as a separate planning unit. Whilst parking and outdoor amenity areas are shared, I do not consider that these arrangements, particularly given their extent, sufficiently link the two properties such that they form a single planning unit.
12. I find, therefore, the evidence is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, the use of the appeal property as a separate dwelling commenced on or before 22 October 2021, more than four years prior to the date of the application, and has continued without significant interruption since that time. It is therefore lawful.

Conclusion

13. For the reasons given above, I conclude, on the evidence available, that the Council's refusal to grant a certificate of lawful use or development is 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.

A` Walker

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 22 October 2025 use 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, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

It has been demonstrated on the balance of probabilities that the property was in use as a single dwelling for a continuous period of four years prior to the date the application was made.

Signed

A Walker

Inspector

Date: 11 September 2026

Reference: APP/C4235/X/26/3377419

First Schedule

A single dwelling

Second Schedule

Land at The Grange Farm, 172 Strines Road, Strines, Stockport SK6 7GA

IMPORTANT NOTES – SEE OVER

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 use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /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 use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /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: 11 September 2026

by A Walker

Land at: The Grange Farm, 172 Strines Road, Strines, Stockport SK6 7GA

Reference: APP/C4235/X/26/3377419

Scale: Not to Scale

