



Appeal Decision

Site visit made on 12 September 2026

A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 7th October 2026

Appeal Ref: APP/Z5630/X/25/3359471

20 Orchard Road Kingston upon Thames KT1 2QW

- 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 John Lindsley against the decision of the Council of the Royal Borough of Kingston upon Thames.
 - The application Ref 24/00906/CEU, dated 11 April 2024, was refused by notice dated 19 November 2024.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is for an existing operation certifying that the bricks used in the construction of the extension comply with condition 3 of the planning permission number 22/00997/HOU dated 22 June 2022¹.
 - An application for costs is made by the appellant against the Council. This is the subject of a Decision.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful development describing the existing operation which is found to be lawful.

Reasons

2. No. 20 is a two-storey semi-detached property located on the Orchard/Grange Road junction. It is locally listed and located within the Fairfield and Knights Conservation Area. On 22 June 2022, planning permission was granted for development resulting in the extensions and alterations of the host building² ("the 2022 Permission"). Condition 1) requires that the approved development shall be carried out in accordance with drawings listed, which include existing and proposed floor and elevation plans. Condition 3) required that the development to which this permission relates shall be carried out in accordance with the materials specified on the approved plans and on the application form unless otherwise agreed in writing by the local planning authority. However, drawings simply illustrate that the materials used on the outer surfaces, including new exposed brick walls, will match existing. The latter is consistent with the details in the application forms.
3. On the one hand, the Council, including its conservation advisors, are concerned that the bricks used on the outer surfaces of the extensions do not match the external elevation of the existing building. On the other hand, the appellant maintains that matching bricks

¹ For clarity's sake, I have amended the description to reflect the nature of the application.

² Council ref 22/00997/HOU demolition of existing rear extension and outbuilding, erection of part two-storey and part single-storey side and single-storey rear extension. Installation of 1 no side and 1 no rear rooflights. Erection of cycle storage, electric gate and fence including widening the driveway access and drop kerb. Alteration to existing gate.

have been used on the new external elevations of the extensions although part of the building remains rendered. They seek a certificate declaring the existing building operation, which has already been carried out, complies with the terms of condition 3).

4. No. 20 front elevation includes yellow London Stock Brick and mixed stock brick on the side elevation. It appears the front elevation has been cleaned as the bricks had weathered over time thus exposing their colour and texture. Nonetheless, the bricks used for the extensions closely resemble the yellow colour and texture of the existing building. There might be a slight difference in brick sizes and, visually, the use of yellow brick draws the naked eye given the corner positioning of the dwelling. Nevertheless, the bricks are likely to weather over time, and it appeared to me that the use of the Flemish bond and lime mortar result in extensions that visually integrate with the existing building.
5. The bricks used at no. 20 can also be found in the wider street scene and Conservation Area. Contrary to the Council's arguments, I find that the bricks used on the external elevations of the extensions and alterations match the existing building and do not materially affect the character or appearance of the host building because the colour and texture match the existing building. Thus, conditions 1) and 3) imposed on the 2022 Permission are satisfied. On the balance of probabilities, the existing operational development has been carried out in accordance with the terms of the 2022 Permission.
6. For the reasons given above and having considered all other matters raised, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the bricks used for the construction of the extension at no. 20 comply with condition 3) of the 2022 Permission was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the Act as amended.

A U Ghafoor

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 11 April 2024 the matter described in the First Schedule hereto, constituting the existing operation, namely, the bricks used in the construction of the extension comply with condition 3 of the planning permission number 22/00997/HOU dated 22 June 2022, in respect of the land specified in the Second Schedule hereto and edged 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 reasons:

The development has been carried out in accordance with the materials specified on the approved plans and on the application form thus no enforcement action may then be taken in respect of them (because they do not require planning permission); and the use of the brick material on the extensions do not constitute a contravention of any of the requirements of any enforcement notice then in force.

Signed

A U Ghafoor

INSPECTOR

Date: 7th October 2026

Reference: APP/Z5630/X/25/3359471

First Schedule

The bricks used in the construction of the extension comply with condition 3) imposed on planning permission number 22/00997/HOU dated 22 June 2022.

Second Schedule

Land edged as shown on the plan attached to this certificate and identified as 20 Orchard Road Kingston upon Thames KT1 2QW.

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Act. It certifies that the existing operation described in the First Schedule erected on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the Act, on that date. This certificate applies only to the extent of the existing operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation or use 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: 7th October 2026

by A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

Land at: 20 Orchard Road Kingston upon Thames KT1 2QW

Reference: APP/Z5630/X/25/3359471

Scale: Do not scale.



SITE PLAN
Scale 1:1250 @ A3



EXISTING BLOCK PLAN - FIRST FLOOR
Scale 1:500 @ A3



PROPOSED BLOCK PLAN - FIRST FLOOR
Scale 1:500 @ A3



EXISTING BLOCK PLAN - GROUND FLOOR
Scale 1:500 @ A3



PROPOSED BLOCK PLAN - GROUND FLOOR
Scale 1:500 @ A3