

DELEGATED APPLICATION REPORT

Ward: Tilehurst

App Ref: PL/26/0674 Lawful development: Existing use

Address: 77C SCHOOL ROAD, TILEHURST, READING, RG31 5AT

Proposal: Use as a 2-bed detached single storey Class C3 dwelling (amended)

Applicant: Mr Winston Francis

Received date: 20th May 2026

Target Decision date: 15th July 2026

Case Officer: Alison Amoah

1. SITE DESCRIPTION

Site visit date: 22nd June 2026

The application site relates to a two-bedroom detached single storey dwelling on the north side of Walnut Way, on the corner of Corwen Road, but has the address 77c School Road. It was formerly part of the adjacent nursery and was divided from that plot when the nursery was sold.

The property is currently in use and is occupied by 2 people.

2. PROPOSAL AND SUPPORTING INFORMATION

Applications for a Lawful Development Certificate for existing use under section 191 of the Town and Country Planning Act 1990. A certificate is sought to confirm that the existing use 1x 2 bed ,1x studio and 1x 1 bed flat (current Use Class C3) based on evidence that the use has been in existence for at least 4 years continuously before the application was submitted.

To comply with [section 191\(5\)](#) or [192\(3\)](#) of the Act the applicant needs to submit evidence to substantiate the claim for the established existing use.

The submitted application form identifies that the use commenced on 15th April 2020.

Submitted Plans and other information considered:

As received 20th May 2026:

3. Application Form
4. Location Plan
5. Drawing no: 9522 P1-04.01 – Ground Floor Plan
6. Photos
7. Statutory Declaration by the applicant
8. Tenancy Agreements dated as follows (The agent confirmed that for Tenant 1,2 and 4 the tenancies have been rolling for the periods shown in brackets):
 - 15/4/20 – 15-10-20 (rolling to 10/4/21) – Tenant 1
 - 17/4/21 - 17/10/21 (rolling to 7/10/23) – Tenant 2
 - 10/10/23 –10/4/24 – Tenant 3
 - 4/5/24 – 4/11/24 (rolling to current) – Tenant 4

5. RELEVANT PLANNING HISTORY

77 School Road

900864 (90-00671-FUL) - Conversion of existing house and extension to provide day nursery (max 30 children). Granted.

910452 (91-00362-FUL) - Proposed nursing staff house ancillary to existing nursery. Refused.
910802 (91-01102-REM) - Erection of detached bungalow and garage for residential use). Granted.
930409 (93-00821-FUL) - Erection of one detached dwelling. Allowed on appeal.
950809 (95-00733-FUL) - First floor addition and associated alterations). Granted.
980009 (98-00547-FUL) - Proposed conversion of existing bungalow into a children's activity centre and after school play club with residential flat. Granted.
010219 (01-00792-FUL) - Proposed 2 no. bed flat for residential staff quarters above existing nursery. Granted.
040803 (04-01373-FUL) - Proposed demolition of outbuilding associated with nursery and erection of 2 houses fronting Walnut Way. Withdrawn.
050645 (05/00168/FUL) - Proposed demolition of nursery out building and erection of a house fronting Walnut Way. Refused.
PL/25/0577/FUL - Retrospective change of use from part-residential, part-pre-school/day nursery to pre-school/day nursery (class E(f)) for up to 90 children at any one time, and associated works. Granted
PL/25/1618/APPCON – Application for Approval of Details Reserved by Condition 1 (Site Plan) of application PL/25/0577. Approved.

4. CONSULTATIONS

Planning Enforcement:

No response at time of writing.

Council Tax:

No response at time of writing.

Electoral Registration:

The number of electors registered at 77C School Road, Tilehurst, RG31 5AT is as follows:

	77C School Rd
2026	1
2025	1
2024	1
2023	1
2022	1
2021	1
2020	1
2019	1
2018	1
2017	0

Legal: Confirmed that the Certificate could be issued.

• LEGAL AND PLANNING POLICY CONTEXT

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and if so, be granted a certificate to that effect.

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate. However, the certificate will not

protect from enforcement action by the planning authority if the specified use or development is then changed 'materially' without a planning application for it.

The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

Section 191 of the Town and Country Planning Act 1990 is the relevant section dealing with issues for Certificates of Lawful Existing Use or Development. This section provides the mechanism for any person to ascertain whether an existing use or development would be lawful, which is by the submission of an application. Section 191(2) states that the use will be lawful if no enforcement action could be taken in respect of the use and that the use or development does not constitute a contravention of any of the requirements of an Enforcement Notice then in force. If there is a Notice in force, then the time period for the Certificate cannot run in relation to that particular breach.

Section 191(4) provides that if the LPA is satisfied that the existing use or development is lawful, then a Certificate must be granted. The burden of proof to prove that this use has existed for 4 years rests with the applicant and the test is on the balance of probabilities. Additionally, as a local authority we are advised that if we have no evidence to the contrary and the applicant's evidence is sufficiently clear and unambiguous then the certificate should be granted. Section 191(4) further provides that the authority can grant such certificate as described in the application or such description as modified or substituted by us.

The NPPG states that *"The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use...if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."*

6. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of 77c School Road as a 2 bed C3 dwelling, began more than 4 years before the date of this application of 20th May 2026 and has been in continuous use as a 2 bed C3 dwelling for the relevant time period which is 20/5/22-20/5/26 (4 years).

It should be noted that S171B (2) introduced a period of 10 years for a breach (change to a separate dwelling). However, transitional arrangements mean that for any change of use of this nature the relevant period of 4 years still applies as the change of use occurred before 25/4/24.

Within the application form and accompanying information, it states that the use of 77c as a 2 bed C3 dwelling began 15th April 2020.

The Electoral Registration Team has confirmed that 1 person has been registered from 2018 to present.

The evidence that the LPA holds, as above, would fully support the case that the house has been in continuous use for at least 4 years.

Turning to the evidence submitted by the applicant to support the claims made within this application, the PPG makes the position clear on how the evidence submitted is to be considered. It says: *"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability"*

A review of the evidence submitted, which includes tenancy agreements and a statutory declaration from the owner does fully support the claim that the property has been in use as a two bed detached C3 dwelling for at least four years, prior to the application being submitted.

Within the qualifying period of 18/5/23-18/5/26 there is one main gap between the tenancy for tenant 3 and tenant 4 as follows: 10/4/24 until 4/5/24.

The explanation provided for the gap is that the property was cleaned and some maintenance carried out prior to it being re-listed. It is considered that the evidence alone is “*sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability*” and that the use as a 2 bed C3 dwelling was not lost during this period.

The site visit carried out by the planning officer on 22nd June 2026 confirmed the floor layout of the two-bed detached C3 dwelling as shown on the submitted floor plan.

There is no evidence to the contrary, and on the balance of probabilities, it can, therefore, be confirmed that 77c School Road has operated as three self-contained flats (Use Class C3 residential) for a period of 4 years and is, therefore, immune to enforcement action.

The applicant has provided sufficient evidence or other information that satisfies the Local Planning Authority that the use of 77c School Road as a single storey, two bed, detached C3 dwelling, began more than 4 years ago and there is no evidence to suggest this use was lost or changed. There is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

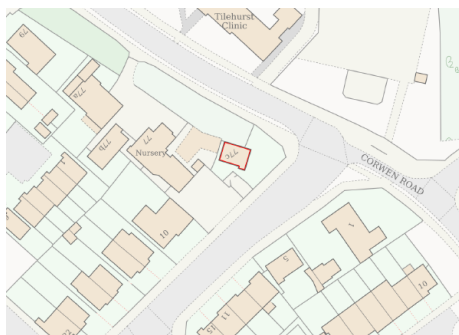
On this basis, and without being made aware of any information to the contrary, the Certificate should be granted. The certificate will relate only to the subject land, shown edged red on the plan below.

7. CONCLUSION

In the absence of the information or evidence to contradict or make the applicant's version less probable, on balance, it is considered that the premises at 77c School Road, has been in use as a single storey, two bed detached C3 dwelling for a period of at least 4 years and there is no evidence to suggest that this use was changed or lost. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

8. RECOMMENDATION

GRANT Certificate



Not to scale