

Report to be read in conjunction with the Decision Notice.

Signed:	Officer:	MC	Date:	13/04/2026	Manager:	LH	Date:	16/4/26
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Application Ref:	3/2026/0151	 Ribble Valley Borough Council www.ribblevalley.gov.uk
Date Inspected:	N/A	
Officer:	MC	
DELEGATED ITEM FILE REPORT:		REFUSAL

Development Description:	Certificate of Lawfulness for existing dwellinghouse.
Site Address/Location:	Withgill House, Clitheroe Lane, Withgill, Great Mitton, BB7 3LW

CONSULTATIONS:	Parish/Town Council
N/A	

CONSULTATIONS:	Highways/Water Authority/Other Bodies
N/A	

CONSULTATIONS:	Additional Representations.
N/A	

RELEVANT POLICIES AND SITE PLANNING HISTORY:

Town and Country Planning Act 1990, Section 171(B); Section 191

National Planning Practice Guidance: Lawful Development Certificates

Relevant Planning History:

3/2020/0381 - Proposed alterations to domestic outbuildings/annexe to reinstate garage door and insert patio doors. Retention of unauthorised pergolas. Retention of unauthorised extension of domestic curtilage.
Approved with Conditions

3/1999/0611 – Erection of Polytunnel
Approved with Conditions

3/1997/0489 – Window revisions and rooflights to existing garage
Approved with Conditions

3/1996/0474 – Amendments to previously approved details of garage and implements store (reference 3/96/0221) re-submission
Refused
Appeal Dismissed

3/1996/0221 – Proposed change of use of land and erection of double garage and implements store.

Approved with Conditions

ASSESSMENT OF PROPOSED DEVELOPMENT:

Site Description and Surrounding Area:

Withgill House forms part of a cluster of converted farm buildings, formerly associated with Withgill Farm. The site is located in the Open Countryside, approximately 3.2km to the South-West of the main settlement of Clitheroe and is accessed off a track from Clitheroe Road which also serves Bridleway BW0320004. The site is not located within the Forest of Bowland National Landscape but is sited just over 250m to the East of its boundary.

It should be noted that the delegated report for planning re: 3/2020/0381 noted that the building was not constructed in accordance with the original plans, however the building has now been regularised under the 2020 planning application.

Proposed Development for which consent is sought:

This is an application for a Certificate of Lawfulness to establish use of the building as a single dwellinghouse for a continuous period. It is the applicant's claim that the property has been in continuous use as a private dwelling from 1st February 2006 through to the present day. As such, the applicant seeks confirmation of the above in the form of a Lawful Development Certificate.

Observations/Consideration of Matters Raised/Conclusion:

The lawfulness of the existing use in question rests upon a detailed assessment of the supporting information provided as part of the application in relation to the provisions of Section 171(B) of the Town and Country Planning Act (1990) (the Act).

Section 171(B) of the Act provides timescales whereby unauthorised development becomes immune from enforcement action and as such becomes lawful as follows:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

Within the submitted application form, the applicant is claiming that the works or activity began before 25 April 2024 and therefore the transitional measures whereby the The Levelling Up and Regeneration Act 2023 (section 115) amended the Town and Country Planning Act 1990 (section 171B) to update the time limits within which local planning authorities can take planning enforcement action against breaches of planning control do not apply.

National Planning Practice Guidance states:

'The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.'

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.

It is the applicants view that the change of use of the annexe to a dwellinghouse falls to be assessed under Section 171(B) 2 whereby no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

Submitted Evidence:

- Bills/invoices related to the annexe between 2022-2023 (Appendices 11-31)
- Rent record from 18 October 2021 to 18 January 2025 (Appendices 5-10)
- 3 x Sworn Declarations (Appendices 2-4)
- Location Plan (Appendices 1)

Assessment of evidence:

The evidence submitted within this application includes a number of invoices and bills which are addressed to the 'annexe' at Withgill House. The invoices include works repairs/works to drainage and the septic tank, kitchen repairs, wall repairs, garage doors and cleaning invoices. It is not considered that this information clearly demonstrates the use of the building as an independent dwellinghouse for a continuous period in excess of four years prior the date of this application. This is because the invoices/bills relate to the annexe building and do not demonstrate that the building has been used independently from the main dwelling rather than by an extended member of the family as one planning unit.

Rent records have also been provided. This is a written record outlining when rent has been paid from October 2021 and January 2025. This shows 15 instances where rent has not been paid or has been paid in part. Whilst the written record suggests rent has been paid, this alone is insufficient to show rent payments being made without evidence of transactions. In addition to this, the Council does not have a record of Council Tax being paid on the annexe independently of Withgill House which is suggestive of an annexe use rather than use as an independent dwelling.

The sworn declarations submitted with the application indicate that the building has been occupied by a member of the family of the applicants as their main residence as Appendix 4 states that the occupant moved into the annexe shortly after their 16th birthday. As such, the claims outlined in the statutory declarations, including Appendix 2 made by the applicants which states that the property has been used as a dwelling house continuously since 18 October 2021 is not supported by sufficient evidence to back up these claims and it is not considered that this is sufficient to demonstrate that the building has been used as an independent dwelling, separately from the main residence and suggests an annexe use.

RECOMMENDATION:	That the certificate of lawfulness be refused for the following reason:
01:	The applicant has failed to demonstrate that, on the balance of probability, the property as shown in drawing ref: 0000-001 has been occupied continuously for a minimum period of four

	years as a (unrestricted) C3 residential dwellinghouse. As such, the development is not considered lawful by virtue of the provisions of S171B(2) of the Town and Country Planning Act.
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