

Mr S Galyas,

Assistant Director of Planning and Sustainable Economy,
Planning Department
Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

9th June 2025

Dear Mr Galyas,

Re: DM/25/1328: Application for a Certificate of Lawful Existing Use (CLEU) in respect of the continued use of land as a recreational cross-country driving course for 4-wheel drive vehicles on Land South of Shepherds, Colwood Lane, Bolney, Haywards Heath, West Sussex, RH17 5QQ.

I am writing in connection with above application.

1. Summary

1.1 In accordance with NPPG (006) I am writing to provide an analysis of empirical evidence which is precise and unambiguous and which contradicts the applicant's version of events and renders the applicants version of events less than probable.

1.2 Contrary to the applicant's assertion that the ('prima facie') evidence they have submitted "is precise and unambiguous and justifies the grant of a CLEU" the opposite is demonstrated herein.

1.3 By reference to the same evidence relied on and asserted by the applicant to be reliable and complete, it can be demonstrated, precisely and unambiguously, that;

- (i) **the land has not been used in the manner described for more than twenty-eight days per annum over a 10-year period, and,**
- (ii) **the land has not been used (hired and operated) for 7 days a week at any time over a 10-year period.**

1.4 More specifically, the Piccadilly Wood 4x4 Facebook Page provides empirical evidence, with posts covering each event (or confirming that there is no event) in every month without exception, for a period of 8 years and 10 months (106 months in total) from the present month (June 2025) back to 2nd September 2016 when the proprietor posted "Welcome to our New Page".

1.5 The applicant has relied on the Facebook evidence to assert in the Statement of Grounds at 2.13 that "the range of posts submitted within each year period indicates that the cross-country course has been operating and the use of the land as described has been occurring". Implicit in the term "as described" is the assertion (made elsewhere) that the use of the land has been for >28 days for at least 10 years; and/or >28 days in every year since 2010; and has been operating 7 days per week throughout the period since 2010. The empirical data confirms that the site has not operated for

more than 28 days in any year since 2016 and that it has not throughout the whole period operated or been hired out on a 7-day week basis.

1.6 At 2.12 in the Statement of Grounds the applicant asserts that “The Facebook web page records posts of events, private hire days, and users’ posts dating back to 2014.” The undersigned confirms and agrees that (for the 106-month period from September 2016 to June 2025) the Facebook record is on balance;

- (i) complete – there are posts covering all public open days, private hire days, and charitable events, (or closures) in every month in the period.
- (ii) detailed – the posts are time stamped and reference each event by date.
- (iii) contemporaneous – photographs of each event held at Piccadilly Wood are posted, usually same day, or next day.
- (iv) reliable – posts are commented on and thereby validated by users.

1.7 Supplied with this letter is an excel file (PICCADILLY WOOD 4x4 FACEBOOK PAGE 01.06.2025 - 02.09.2016.xls) which analyses every event recorded and referenced in Facebook posts between September 2016 and June 2025. The empirical evidence confirms the following:

- (i) **Over a period of 106 months (8 years and 10 months) there have been a total of 106 days in which Open Day ‘Pay and Play’ or Private Events were held.**
- (ii) **This represents an average of 1 day per month or 12 days per annum.**
- (iii) **Of the 106 days of events, 89 (84%) were public open days held on the first Sunday of the month, and 17 (16%) were private events.**
- (iv) **The highest number of event days in anyone year was 15 in 2024. This is well within the Permitted Development allowance under the ‘28-day rule’.**
Accordingly, there has been no breach of planning control and therefore there is no legal basis under which to present an application for a Certificate of Lawful Existing Use.
- (v) **Of the 106 days of events, 105 of them were held on a weekend, of which 98 were on a Sunday, 6 were on a Saturday, 1 was on a Bank Holiday Monday and 1 *may* have been on a Wednesday.**
There is no evidence whatsoever which supports the contention that the land has been available and/or used 7 days a week.

2. Legal decision

2.1 I note that:

- (i) “This is an application to establish whether the development is lawful” and,
- (ii) “This will be a legal decision where the planning merits of the existing use cannot be taken into account.”

2.2 The legal decision is to be determined according to the Town and Country Planning Act (1990) as amended Section 191(4), which states:

“If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”

2.3 For the planning authority to be satisfied of the “lawfulness at the time of the

application of the use” the applicant must in this case demonstrate ‘on the balance of probability’ that a breach of planning control occurred more than 10 years ago and that it has persisted for 10 years without enforcement action being taken.

2.4 No application has ever been made for Planning Permission. The land has been used under the 28-day rule for permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015, Cross Heading: Class B – temporary use of land.

2.5 The specific breach of planning control that the application identifies is the use of the land without planning permission. For a breach to have occurred (and to have persisted for 10 years) the applicant must therefore demonstrate ‘on the balance of probability’ that the site has operated for more than 28 days a year for 10 years.

2.6 The applicant has failed to demonstrate this and in fact the evidence that it has presented, precisely and unambiguously demonstrates that the site has been operated within the permitted development allowance under the 28-day rule.

2.7 There has been no breach of planning control and therefore there is no legal basis under which to present an application for a Certificate of Lawful Existing Use.

3. Summary of legal position

3.1 The Agent for the Applicant has submitted with the application a “Statement of Grounds (“SOG”) document outlining their legal case as follows:

3.2 At SOG 2.8: the Agent invokes Section 171B (3) of the Town & County Planning Act 1990 (as amended). *“In the case of any other breach of planning control, no enforcement action may be taken after the end of a period of ten years beginning with the date of the breach”*

3.3 The application itself is made under the Town and Country Planning Act 1990 (as amended) Section 191 – Certificate of lawfulness of existing use of development (“the Act”). This provides simply that after the 10-year period pursuant to a breach of planning control has elapsed with no enforcement action having been taken against that breach of planning control, then the applicant may apply for a Certificate of Lawfulness which then exempts the applicant from any further enforcement action and from any requirement to apply for planning permission for the activities being undertaken on the land. This would have the effect of granting full planning permission for change of use of woodland in the AONB to a 7 day a week 4x4 centre without the requirement for any planning application, environmental impact assessment, or highways consideration.

3.4 The Agent’s dilemma is that the applicants and operators of Piccadilly Wood 4x4 have expressly operated the site since it started under the 28-day rule for permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015, Cross Heading: Class B – temporary use of land. The applicants have never applied for planning permission for very obvious reasons – they would be very unlikely to get it in an AONB, subject to an environmental and highways assessment. The site has always therefore operated on the 28-day rule and the use has been kept well within the 28-days per annum permitted development allowance.

- 3.5 All the residents of Colwood Lane, Jeremy's Lane and Cross Colwood Lane surrounding the site are painfully aware that the site operates on the first Sunday of every month (April – December) and that in recent years Jan – March Sunday events have been added. Outside of that the use of the site is very rare and the understanding of all local residents is that the site has always operated under the 28-day permitted development rule and has kept use well within the permitted 28-days per annum allowance. Any excess usage and/or material deviation from the long established 9-12 days per annum permitted use on the first Sunday of the month would have resulted in an immediate formal complaint to MSDC Planning Authority.
- 3.6 To establish a breach of planning control the Applicant must demonstrate 'on the balance of probability' that it has operated for more than 28 days per annum since 2010. The Agent for the Applicant has therefore sought at SOG 2.7 under the "Background" heading to try to establish that the site has been operated for more than 28 days a year since 2010.
- 3.7 The Agent is noticeably silent at 2.9 and 2.10 under the "Evidence Presented" heading and negates to state that it is the very fact of operating outside of the permitted development allowance of 28 days which causes the legal breach of planning control.
- 3.8 The Statement of Grounds document is contrived entirely around the requirement to justify the exact opposite of the basis upon which the site has been legally operated since it commenced. This clearly is a nonsense and it is unsurprising that outside of the empirical evidence on the Facebook page there is absolutely no documentary evidence whatsoever provided (nor is there any other social media evidence) to support any events or use of the Land outside of those events listed on the Facebook page for each month in the period Sept 2016 – June 2025. It is noted that (whilst the Business Rates evidence has been seemingly omitted from the submission) the operation professes to be run as a business and has managed to make claims for Covid Business grant support yet it is apparently unable to provide invoices/receipts and or bank statements to corroborate and evidence payments for any private hire bookings that might somehow have escaped being recorded on Facebook as well as escaping the attention of the numerous residents who live 24/7 alongside the site, on the access roads to it and /or within earshot of it.

Yours sincerely,

Appended to this letter: PICCADILLY WOOD 4x4 FACEBOOK PAGE 01.06.2025 - 02.09.2016.xls