

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/0958	Case Officer:	Stefan Galyas
Application Type:	Lawful Development Certificate -Existing		
Proposal:	This Certificate of Lawfulness for Existing Use and Development application is sought on the basis that the works listed were substantially completed at the Property more than four years ago: addition of a small TV / snug room on the ground floor; construction of a new car port; ground floor extension on the main house; and canopies on the annex and main house.		
Site:	Boundary Place, Long House Lane, Warninglid, Haywards Heath, West Sussex, RH17 5TE, ,		
Validation Date	15 Apr 2026	Overall Expiry Date:	12 May 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	3 Jun 2026
Target Date:	10 Jun 2026	Recommending Officer Signature:	<i>Stefan Galyas</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Steven King</i>	Date:	4 Jun 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/0958

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basis that the works listed were substantially completed at the Property more than four years
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ground floor extension on the main house; and canopies on the annex and main house.
Mr Simon Hague

REPRESENTATIONS

There were no letters of representation received in response to the proposed development.

CONSULTATIONS

Parish Council: No response received.

INTRODUCTION

The Certificate of lawfulness (existing) is to establish that the works listed were substantially completed at the property more than four years ago: the addition of a TV/snug room, the construction of a new car port, a ground floor extension and canopies on the annex and main house.

RELEVANT PLANNING HISTORY

10/00310/FUL - Demolish existing conservatory and double garage. Reclad house in vertical cedar boards and fit replacement windows and external doors. New annex to house additional accommodation and sustainable energy systems. Permission 14.04.2010.

07/01406/FUL - The construction of a family house to replace one currently on site. Included within the scheme is also a natural swimming pool. Permission 08.01.2007.

SITE AND SURROUNDINGS

The Certificate of Lawfulness relates to Boundary Place, a detached residential dwelling which is set between Long House Lane to the west and Spronketts Lane to the east. The existing dwelling features a contemporary appearance with ample garden amenity space moving to the south where some outbuildings are positioned. The existing dwelling has been extended and modernised in various forms and part of the garden has been stepped in levels to provide a landscaping feature.

The site is not set within any designated settlement boundary and is set within the High Weald Area of Outstanding Natural Beauty (National Landscapes).

APPLICATION DETAILS

The application seeks a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990. The application seeks to establish that the following works were substantially complete for more than four years before the time of the application:

- The addition of a TV/ snug room to the ground floor
- A car port
- A ground floor extension
- Canopies to the annexe and main house

The application is supported by the following schedule of documents:

- CLEUD Grounds
- Exhibit SH-1
- Exhibit SH-2
- Exhibit SH-3
- Statutory Declaration
- Location Plan

LEGAL FRAMEWORK

Section 191 of the Town and Country Planning Act 1990 indicates that the burden of proof lies with the applicant. The relevant test is 'the balance of probability' and Local Planning Authorities are advised that if they have no evidence of their own to contradict or undermine the applicant's version of events there is no good reason to refuse the application provided that the applicants' version is precise and unambiguous to justify the grant of a certificate. This section also indicates that 'if on an application under this section, the LPA are provided with information satisfying them that the use or operations described in the application would be lawful, if instituted or begun at the time the application, they should issue a certificate to that effect; and in any other case they shall refuse the application'.

Time limits for enforcement set out in Section 171B of the Town and Country Planning Act 1990;

'(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 -

(a) in the case of a breach of planning control in England, ten years beginning with the date in which the operations were substantially completed, and

(b) in the case of a breach of planning control in Wales, 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 -

(a) in the case of a breach of planning control in England, ten years beginning with the date in which the operations were substantially completed, and

(b) in the case of a breach of planning control in Wales, four years beginning with the date on which the operations were substantially completed.

(2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).

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.

4) The preceding subsections do not prevent -

a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.'

It should be noted that Section 171B of the Town and Country Planning Act 1990 was amended by section 115 of the Levelling-up and Regeneration Act 2023. The amendments in part removed the previous enforcement period in (2) of section 171(B) which was four years and replaced it with a 10 year enforcement period.

Section 115 of The Levelling-up and Regeneration Act 2023 includes transitional arrangements for this change which state that the alterations to section 171(B) made by the 2023 Act

'do not apply where -

(a) in respect of a breach of planning control referred to in section 171B(1) of the 1990 Act (5) (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.'

The 2023 Act came into force on the 25th of July 2024. From the documents that have been submitted it is considered that the breach in question occurred in 2022.

As such the transitional arrangements as set out within the 2023 Act are considered appropriate and the relevant time period is four years. The applicant is required to demonstrate on the balance of probabilities that the works listed were substantially complete for more than four years from the date of this application

The onus of proof is firmly on the applicant and the standard of proof is the balance of probability. If there are contradictions in the applicant's evidence on material issues, then the LPA would be entitled to refuse the certificate.

More recently the Localism Act has introduced legislation under section 171BA for cases where the LPA that there has been deliberate concealment. This states:

'171BA Time limits in cases involving concealment

1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates' court for an order under this subsection (a 'planning enforcement order') in relation to that apparent breach of planning control.

2) If a magistrates' court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of-

a) the apparent breach, or

b) any of the matters constituting the apparent breach, at any time in the enforcement year.

3) 'The enforcement year' for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court's decision to make the order is given, but this is subject to subsection (4).

4) If an application under section 111(1) of the Magistrates' Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn.

5) Subsection (2)-

a) applies whether or not the time limits under section 171B have expired, and

b) does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.'

This confirms that where a person has deliberately set out to mislead the LPA, the time limits set out in Section 171B of the Town and Country Planning Act 1990 do not apply.

ASSESSMENT

The test is to establish whether the proposed elements named within the description of development were substantially for more than 4 years. The test is 4 years and not 10 as it is claimed that the works were substantially complete before the 25th of April 2024.

This is not a case involving concealment so section 171BA of the Act does not apply.

The TV/ Snug Room

Evidence has been provided through the form of a Statutory Declaration which notes that works to the TV/ snug room were completed on the 23rd March 2022. Furthermore, in the document titled 'Exhibit SH-1' notes that a company was commissioned to construct the TV/ snug room on the 16th of July 2021. The document titled 'Exhibit SH-2' includes a letter from the construction company from the 14th of April 2022. Within this document, there is a photo which shows the TV-snug room alongside other elements. Moreover, historic aerial photography shows this elements footprint as having been constructed on 23rd March 2022.

The Car Port

The submitted Statutory Declaration notes that the car port was substantially completed on the 23rd of March 2022. The document titled 'Exhibit SH-1' states that a construction company was commissioned to construct this element on the 16th of July 2021. Historic aerial photography shows the footprint of the car port as having been constructed on the 23rd of March 2022;.

Ground Floor Rear Extensions and Canopies

The Statutory Declaration states that the ground floor rear extension to the main house as well as the rear canopies to the main house and annexe were completed by the 14th of April 2022. The document titled 'Exhibit SH-1' states that a construction company was commissioned to construct this element on the 16th of July 2021. The document titled 'Exhibit SH-2' includes a letter from the construction company from the 14th of April 2022. This document shows photos of both the rear extension and the canopies. Furthermore, an invoice from the construction company has been attached to this document for a 'kitchen extension' and retractable pergola'. Historic aerial photography shows the rear extensions footprint as well as the canopies on the 23rd of March 2022.

No information has been submitted by third parties which conflicts this evidence.

CONCLUSION

It is considered that there is sufficient evidence submitted by the Applicant which would indicate, on the balance of probabilities that the TV/ snug room, car port, ground floor rear extensions and rear canopies were built to the point of substantial completion for more than 4 years. Accordingly, the Lawful Development Certificate (Existing) should be granted.

Decision: Permission

Case Officer: Stefan Galyas