

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1851	Case Officer:	Andrew Horrell
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Certificate of existing use for part of stable building as residential accommodation on Land known as The Stud Bungalow		
Site:	The Stud Bungalow, Wyndham Farm, Wineham Lane, Wineham, Haywards Heath, West Sussex, BN5 9AN,		
Validation Date	21 Jul 2025	Overall Expiry Date:	13 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	8 Sep 2025
Target Date:	15 Sep 2025	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	3
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Signed and Agreed By:	Stephen Ashdown	Date:	8 Sep 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1851

The Stud Bungalow, Wyndham Farm, Wineham Lane, Wineham, Haywards Heath, West Sussex, BN5 9AN

**Certificate of existing use for part of stable building as residential accommodation on Land known as The Stud Bungalow
Mr Robert Whitaker**

SUMMARY OF REPRESENTATIONS

Three letters of objections have been received on the following grounds:

- Various buildings erected on site without planning permission and not enforced
- Noise

PARISH COUNCIL COMMENTS

Twineham Parish Council are aware of the unauthorised development of this site over a number of years. Council have raised numerous breaches of planning at Wyndham Farm with Mid Sussex District Council and object to a Certificate of Existing Use being granted.

RELEVANT PLANNING HISTORY

None relevant

SITE AND SURROUNDINGS

The bungalow is a large single storey pitched roofed building formed partially of living accommodation and partially a stable building. The walls are painted render with timber doors and windows. The site is accessed via a cul-de-sac access track also serving Wyndham Farmhouse, The Bothy, The Barn, The Foal Barn and Wyndham Farm.

The wider site is used for equestrian and stabling.

To the north of site agricultural buildings with fields beyond, to the south of the site is hedging to access track beyond, to the east of the site is the parking area with equestrian school beyond and to the west of the site is hedging to Foal barn beyond.

The site is within the countryside.

APPLICATION DETAILS

The application seeks a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990 for the development (use of part of stable building used as residential accommodation) without planning permission and that these works took place more than 4 years ago

The application is supported by statutory declarations providing confirmation that the relevant part of the building has been used as residential accommodation since March 2005. It also has a letter from a builder involved in the conversion of the barn into residential accommodation in April 2001. They have also provided an email from MSDC enforcement team from December 2018 inviting the owners to apply for a Lawful Development Certificate to regularise the use of the stable staff accommodation.

This is an application to establish whether the development is lawful; this will be a legal decision where the planning merits of the proposed use cannot be taken into account.

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 2005, which was when the building was used as ancillary accommodation.

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 building has been used as ancillary accommodation continuously 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 applicant is required to demonstrate on the balance of probabilities that the land in question has been used as residential accommodation for a period of 4 years or more back from the date of the 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.

The evidence submitted includes Statutory declarations from a builder involved in the conversion of the building to residential use, statutory declarations from those who has used and occupied the bungalow

since 2005 and a letter from MSDC enforcement from 2018 inviting the application to submit a Lawful Development Certificate to regularise the use of the building.

The timeline of the use and occupation of the bungalow is as follows:

Nicolas Platt (1st March 2005 - 1st July 2008)
Charlotte Platt (1st July 2008 - 1st April 2013)
Nicolas Platt and Queenie Waterman (1st April 2013 - 1st October 2018)
Charlotte Platt and Ryan Dean (1st October 2018 - 18th October 2023)
Charlotte Platt (18th October 2023 - 1st March 2024)
Robert Whitaker (1st March 2024 - present)

A number of objections have been received from neighbours, although they are not disputing the evidence provided by the applicant.

Taking the above into consideration, and in the absence of any contradictory evidence, it is considered that on the balance of probabilities, the relevant part of the building has been used as for residential accommodation continuously for more than four years from the date of this application.

Other than the above, the LPA has no evidence to dispute or contradict the applicant's version of events. It is therefore considered that the applicants have established on the balance of probabilities that the relevant part of the building has been used as a residential accommodation for more than four years from the date of application. On this basis, it is recommended that a certificate of existing lawful use can be issued.

CONCLUSION

It is considered that the applicant has established on the balance of probabilities that the part of the building known as the Stud Bungalow, as outlined in red on the Block Plan accompanying the application, has been used as a separate residential dwelling for more than four years from the date of the LDC application. A certificate for lawful use to confirm the use as residential accommodation can therefore be issued.

Decision: Permission

Case Officer: Andrew Horrell