

Development Management  
Mid-Sussex District Council  
Oaklands  
Oaklands Road  
Haywards Heath  
West Sussex  
RH16 1SS

31 January 2025

Planning Portal ref: PP-13736073

Dear Sir/Madam,

**Town and Country Planning Act 1990 (as amended) – Section 191  
Application for a Certificate of Lawfulness for Existing Use or Development in relation  
to residential cabin located in Horsepasture Wood, Wallage Lane, Rowfant, Crawley,  
RH10 4NG.**

Please find enclosed this application for a Certificate of Lawfulness for Existing Use or Development (CLEUD) in relation to a residential Cabin located at the south-western edge of a pond located in Horsepasture Wood, Wallage Lane, Rowfant, Crawley, RH10 4NG.

The application has been made following a visit to the property made by Mid Sussex DC officers Andrew Clarke and Tanya Leete on 9 May 2024. A previous application for a Lawful Development Certificate for the cabin was submitted on 13 August 2024 under reference DM/24/1956 (planning portal reference PP-13109244). The application was refused on 22 November 2024. I am submitting this revised application to resolve the concerns raised by Mid Sussex District Council in their delegated report and to provide further evidence in support of the application.

The description of the development that is being requested to be certified as lawful is as follows:

*“Application for a Certificate of Lawful Existing Use or Development for the construction of a residential cabin. Revised application following the refusal of DM/24/1956”.*

In addition to this covering letter, the application, which has been submitted via The Planning Portal (ref: PP-13736073), comprises the following documentation:

- Completed application form.
- Site location plan
- Drawings of the cabin
- Statutory Declaration plus Annex's 1-16 of Rosie Nelson
- Statutory Declaration plus Annex 1 of Connor Chatfield
- Statutory Declaration plus Annex 1 of Jeremy Nelson
- Statutory Declaration plus Annex 1 of Jane Simmons
- Statutory Declaration plus Annex 1 of Mark Simmons
- Statutory Declaration plus Annex 1 of Aimee Barnes-Austin
- Statutory Declaration plus Annex 1 of Jack Kempster
- Statutory Declaration plus Annex 1 of Jayne Ryan
- Statutory Declaration plus Annex 1 of Peter Ryan

- Statutory Declaration plus Annex 1 of Joanne Laker

The statutory application fee has been paid by bank transfer.

### **Description of the Site**

The application site comprises a cabin and its associated curtilage. The original cabin measures 5.95m x 4.5m with a height of 2.36m to eaves and 3.71m to its ridge. The roof overhangs to create a small, covered veranda such that the length of the roof is 7.05m. Two extensions have been added to the original structure, the first was erected in February 2021 and the second was completed in August 2022.

The site of the cabin is located on the south-western edge of a pond situated in the northernmost part of Horsepasture Wood, some 530 metres or so north of the junction of Wallage Lane with Turners Hill Road. Woodpeckers Fishery lies to the west of the site and Rowfant Residential Home to the east of the site.

There are two other cabins located nearby, one on the northern edge of the same lake, which is owned by my father, and a second, within Horsepasture Wood approximately 380m to the southeast. Separate applications for CLEUD's have been submitted in relation to both of these other cabins.

### **Description of Development to be Certified**

The application seeks to certify that the construction of the original residential cabin was substantially completed more than four years prior to the date of this application. At the time of construction, there was no intention to add the store or additional bedroom extensions.

The application accordingly seeks a Certificate that confirms the construction of the original cabin is lawful for planning purposes.

It is appreciated that the extensions to the cabin have been added within the last four years. I have received legal advice on this matter which confirmed the following:

- It is clear the cabin, which was plainly operational development, was always intended as a dwelling.
- It was substantially complete more than four years ago.
- The distinctive characteristic of a dwelling is its ability to afford to those who use it the facilities required for day-to-day private existence, as is the case here.
- On the question of whether the extensions change the above analysis? A judgement is required as to whether the extensions, and any other work, so substantially altered the "original" cabin as to create an entirely new building, whilst destroying the "original" cabin as a recognisable independent structure, thus resetting the immunity clock.
- Based on the available evidence and photographs, the "original" cabin remains a recognisable independent structure, and the extensions are obviously add-ons with the original cabin intact.

Therefore, the extensions do not restart the immunity clock, and the cabin was substantially complete prior to the extensions being added. It is proposed that assuming this application for a Certificate of Lawfulness for the original cabin structure is granted, that an application for retrospective planning permission will then be made, within an agreed period of time, for the retention of the extensions.

### **The grounds on which the certificate is sought**

As the District Council will be aware, Planning Practice Guidance advises that the statutory

framework covering lawfulness for lawful development certificates is set out in Section 191(2) of the Town and Country Planning Act 1990 (the Act). In summary lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force (Paragraph: 003 Reference ID: 17c-003-20140306).

Whilst there have been changes to the enforcement regime set out in the Levelling-up and Regeneration Act 2023 and implemented by The Planning Act 2008 (Commencement No 8) and Levelling-up and Regeneration Act 2023 (Commencement No 4 and Transitional Provisions) Regulations 2024 that have come into force that increase the time to take enforcement action to 10 years for all forms of development, by virtue of the transitional provisions included therein, the time for taking enforcement action in relation to operational development and change of use of any building use as a to a single dwelling remain at 4 years for breaches undertaken before 25 April 2024, as is the case here.

Planning Practice Guidance also advises local planning authorities that the burden of proof in applications made under Section 191 for a Certificate of Lawfulness for an Existing Use or Development is firmly with the applicant and that the relevant test is the “balance of probability”. Authorities are further 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 the applicant’s evidence is sufficiently precise and unambiguous to justify the grant of the certificate (Paragraph: 006 Reference ID: 17c-006-20140306).

Furthermore, Planning Practice Guidance states that in considering the application, it needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process (Paragraph: 009 Reference ID: 17c-009-20140306).

In this case, there is a wealth of evidence provided to clearly demonstrate that the original cabin was constructed and substantially completed over 4 years ago. This evidence comprises both testimonial evidence in the form of statutory declarations from myself, my partner, friends and family that have visited the cabin, as well as documentation in the form of Google Earth images, orders and payment receipts for various items of equipment used in the cabin, dated photographic evidence of its construction and use since, extracts of social media, conversations with individuals that relate the full time occupation of the cabin.

The evidence provided clearly and irrefutably demonstrates that the cabin was constructed and was substantially complete over 4 years ago and therefore it is abundantly clear that in this instance, a Certificate of Lawfulness for the construction and subsequent occupation of the cabin as a single dwelling should be issued by Mid Sussex District Council.

#### **Previous application (DM/24/1956)**

The previous application was refused by Mid Sussex DC on 22 November 2024. The reason stated was as such:

*“it is considered that on the balance of probability, the cabin that has been built has not been used as a residential dwellinghouse continuously throughout the period of 4 years or more since the date of this Lawful Development Certificate application”.*

There were a number of statements made by Mid Sussex DC in their delegated report which explained how they reached this decision. I have listed these below and provided details of the additional evidence included within this revised application to satisfy the statements made.

- *"Photo evidence of kitchen shows the part installation of a kitchen without any taps and photos from April 2020 and show little sign of residential occupation with none of the domestic paraphernalia that would be expected if the building was being occupied for that purpose"*

The kitchen worktops and oven were installed in March 2020. When we first moved into the cabin in September 2019, we did not have a fully functioning kitchen or taps. Being an off-grid property, we gathered rainwater and filtered this through our Berkey Water Filter. The Berkey Water Filter was initially kept by the front door (not in the kitchen). We did all of our washing up here. We had a small gas camping stove which we kept on a table by the front door, which is where we did our cooking until our oven was installed. I have provided written explanations within my Statutory Declaration in this regard, as well as further photographic evidence and print outs of my social media page to support these statements.

- *"Photo evidence showing the cabin on 24th April 2020, clearly shows the roof and rooflight not complete and is not being occupied for residential use".*

The cabin was occupied for residential use at this time, the photo therefore cannot show otherwise. If the officer is referring to the outside of the cabin at this time, this does not affect the residential use of the cabin.

The rooflight and roof insulation were installed in April 2020, and roof shingles were finished in May 2020. We waited until spring to install these components due to the improved weather conditions. Prior to this, the cabin had a plastic sheet over the roof to keep it watertight whilst we lived there. I have provided written explanations within my Statutory Declaration, as well as photographic evidence of this period to support these statements. The Statutory Declaration from Mark Simmons (pictured in the photograph dated 24 April 2020 mentioned above) also confirms that we were living in the cabin at this time while the work was taking place.

- *"Excerpts from bank statements for gas bottles and copies of furnishing purchases, are not clear and precise, as some invoices/statements do not show names, and the delivery addresses are varied and do not include the property subject to the application and, therefore the evidence is not consistent and would be considered to carry very little weight".*

Bank statements for gas bottles have now been included with names and addresses for both me and my partner. The names and addresses on the furnishings have been highlighted and arranged in a clearer format. The addresses either relate to my aunt's address at Ramble On, or my mother's address in the Ridings. As the officers who have visited the cabin will understand, we are unable to receive deliveries directly to the cabin due to the nature and location. Updates have been made to my Statutory Declaration to reflect this.

- *"Photo evidence dated 17th May 2020 of a man and dog, does not clearly state that the cabin was being used for continuous residential use".*

To remove any ambiguity regarding our continuous use of the cabin as our home, I have added the following:

- Continuous and in-depth photographic evidence for the last four years and beyond (Annex 11).
- Photographic evidence provided by third parties (Annex 12).
- Further screen prints from my Instagram account where I speak about living in the cabin (Annex 13).
- Additional excerpts of virtual conversations myself and my partner have had with people about living in the cabin (Annex 14).

- *"Photo evidence dated 22nd July 2020, shows a wooden structure with no roof or door, according to the statement this structure is indicated as a toilet shed, which stated was completed. A fully operational toilet would be required for residential occupation and as such it would be highly unlikely residential would take place without toilet facilities and the evidence would therefore not be consistent considering the other statements made and submitted."*

**A fully operational toilet was not required for residency. Prior to July 2020, we dug "catholes" to dispose of our waste, making sure to do so in line with the "leave no trace" guidance. I have provided further testimonial evidence in this regard, via both my Statutory Statement and my partner's Statutory Declaration. I have also provided screen prints of my Instagram page (Annex 13, photo 4) in which I speak about building the compost toilet, and "hanging up the shovel" which is a reference to no longer needing to dig catholes. The compost toilet shed was completed and functional on or around the end of July 2020, although a picture was not taken at this time. The first available photograph is dated 28 August 2020 which I have included for reference. However, I would assume that pictures of both the building and insides being built in July 2020 is evidence enough to assume this was completed at that time.**

- *"With reference to the Statutory Declaration's from family and friends, these are not clear and precise and are not given under oath and therefore are given little weight to the evidence."*

**Statutory Declarations from family and friends have now been taken under oath where possible. This was not possible for a few people who were overseas. I have kept their original statements in Annex 15 for reference.**

I appreciate that we have lived an unconventional, off-grid lifestyle, forgoing many comforts and conveniences by choice. Having lived this way for over five years, we are used to people's surprise and perhaps, disbelief. Whilst some might find it hard to believe we live this way; I do not believe the application should be declined on this basis. The wealth of evidence provided clearly shows the cabin was constructed and has been used continuously as our home for over four years.

If this application is refused and future continuous residency denied, myself, my partner and my daughter will be homeless. We have no other residence and have no means to purchase another.

I trust that I have included all relevant information sufficient to enable the application to be validated and registered and look forward to discussing the application with officers.

Yours sincerely



Rosie Nelson