

Delegated Decision
Sign off Sheet

Ref. No:	DM/25/1328	Case Officer:	Stefan Galyas
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Application for a Certificate of Lawful Existing Use in respect of the continued use of land as a recreational cross-country driving course for 4-wheel drive vehicles		
Site:	Piccadilly Wood, Colwood Lane, Bolney, Haywards Heath, West Sussex, RH17 5QQ, ,		
Validation Date	23 May 2025	Overall Expiry Date:	27 Jun 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refuse	Recommendation Date:	16 Jul 2025
Target Date:	18 Jul 2025	Recommending Officer Signature:	<i>Stefan Galyas</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	25
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	16 Jul 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1328

**Piccadilly Wood, Colwood Lane, Bolney, Haywards Heath, West Sussex, RH17 5QQ,
Application for a Certificate of Lawful Existing Use in respect of the continued use of land as a
recreational cross-country driving course for 4-wheel drive vehicles
Mr And Mrs Perver**

REPRESENTATIONS

There were 27 letters of representation received in response to the proposal with 26 raising an objection and one letter raising no objection provided that the level of noise does not increase as a result of the sites continued use.

The following issues were raised in the letters of objection:

- The site not having been used for more than 28 days a year over a ten-year period pursuant to the use subject to the application.
- The course causing an unacceptable noise impact upon the quiet countryside setting of the site.
- Vehicles coming and going from the site driving at a fast speed on the public highway, causing danger to other vehicles.
- Vehicles pulling trailers to and from the site which take up the width of the lane.
- There being residual mud left on the public highway after vehicles have used the site.
- The land not being returned to its previous state between each use and therefore being contrary to Class B.
- The woodland being adversely impacted by the four-wheel drive vehicle tracks with trees having their roots exposed, damaging the health of trees and damaging watercourses.
- The vehicles using the site posing a risk to the horses, riders, pedestrians, cyclists and children that use the lane.
- The appellants statement of grounds not demonstrating that the operation is in excess of 28 days a year over a 10-year period.
- The site being positioned within the High Weald Area of Outstanding Natural Beauty and not having regard the requirement to conserve or enhance the natural beauty of the AONB.
- There being a close proximity to the Grade II* Wykehurst Place.
- The site being visible from the roadside with only a woodchip fence acting as the boundary between and therefore contrary to the Applicants statement.
- The noise and fume pollution resulting an adverse impact towards the enjoyment of the neighbouring garden amenity spaces.
- There being uninsured vehicles driving to and from the site.
- Regular visits from lorries dumping rubble and other waste materials, resulting in an unacceptable pollution impact.
- Local residents being aware of the sites use for 4x4 rallies on the first Sunday of most months and should this have been exceeded in use, complaints to the Council would have been submitted.
- The supporting evidence providing evidence of 106 individual events and does not demonstrate the use nor that the uses availability 7 days a week.
- The watercourse within the site flowing into the neighbouring property suffering from oil and fuel contamination.
- The site being used for commercial purposes as demonstrated through the sites advertisement and required entrance fee.
- The vehicles not complying with the previous planning permission which requires that vehicles have road worthy silencing equipment.
- The previous permission only allowing for the use of site for the first Sunday of each month.
- The water course having been altered to suit the vehicles which have caused flooding in the locality resulting in the Council having to repair the road surface.
- There not being a record of Companies House for both the company name and officers.

- The affidavits not confirming that the 4x4 course has been used for more than 28 days a year but instead notes that the site was 'available for use'.
- The site not being utilised more than once a month due to the evidently open gates as well as a sign in the vicinity of the course.

CONSULTATIONS

None

Parish Council:

'The Parish Council notes the application by the owners of land know as Piccadilly Wood in the Parish of Bolney for a Lawful Development Certificate for an Existing Use for the site as a recreational cross-country driving course for 4-wheel drive vehicles, and comment as follows:

*The site at Piccadilly Wood is situated within the boundary of the High Weald National Landscape and a large part of the site is designated as Ancient and semi-natural Woodland and Ancient Replanted Woodland. Approximately 200m from the site on Colwood Lane lies the Grade II*listed building Wykehurst Park and within 500m of the site lie three Grade 2 listed properties on Colwood Lane and Jeremys Lane. At Appendix 1 is an extract from the DEFRA Magic Map showing the site outlined in blue, and the boundary of the High Weald AONB, the Ancient Woodland, and the nearby listed buildings.*

Over the years, several residents of the Parish have either contacted the Parish Clerk or attended Parish Council meetings to complain about:

- the noise from the site during event days;*
- highways safety and the mud left on the lanes after an event day, and the driving of visitors to the site along the narrow lanes approaching the site; and*
- the detrimental impact the use of the site as a cross-country driving course site has on the amenity of the local residents.*

The Parish Clerk has contacted MSDC Enforcement on several occasions to express the concerns of residents about the impact that the operation of this business at Piccadilly Wood.

At Appendix 2 are a selection of photographs taken from the applicants' Facebook page 'Piccadilly Wood 4x4' showing 4x4 vehicles using the course at the site. The photos evidence the damage being done to the floor of the Ancient Woodland, the creation of deeply banked tracks through the AONB landscape and the exposure of tree roots by the vehicles using the course. Also in Appendix 2 are two photographs taken from Google Earth showing aerial views of the site at 31st December 2005 (being 2 years before the applicants say that they opened the course) and another dated 31st March 2025 showing the damage to the landscape and woodland.

The Parish Council is concerned that although the applicants claim to have been operating the cross-country driving course temporarily under Permitted Development Rights, it would appear from the photographs in Appendix 2 that they are failing to reinstate the the landscape to its former condition in between each event day resulting in permanent environmental impacts to the AONB landscape and Ancient Woodland. It is the view of the Parish Council that the operation of the business is incompatible with the character and beauty of the National Landscape.

The Parish Council asks that instead of granting the Lawful Development Certificate, a member of the MSDC Enforcement Department make an urgent visit to the site to investigate the concerns of the Parish Council that permanent damage is being caused. If these concerns are upheld, the Parish Council requests that the Enforcement Department immediately issue a Temporary Stop Notice to cease the operation of the cross-country driving course to prevent further damage to the environment and to the amenity of the area.

In case they are of assistance, the Parish Council refers the planning officer to the High Court decision of Healey Parish Council v Northumberland County Council (Claims number CO/4122/2020), a successful judicial review action brought by the Parish Council against the decision of the County Council to grant a

Lawful Development Certificate, and the narrative of the Planning Inspector in the Decision to dismiss an Appeal in the matter 'Land south east of Runham Lane, Lenham, Kent APP/U2235/W/16/3143679.'

RELEVANT PLANNING HISTORY

12/00843/FUL - Restrospective application for the erection of a small open sided open front and back pine rain shelter set in a Pine woodland setting, for the use of forestry workers in adverse weather. Permission 25.04.12.

SITE AND SURROUNDINGS

The Certificate of Lawfulness relates to Piccadilly Wood, a plot of land to the west of Colwood Lane. The site comprises ancient woodland and Cooks Gill runs as a watercourse through the site. There is a clearing towards the eastern boundary of the site where a pine rain shelter can be located.

APPLICATION DETAILS

The application seeks to establish the continued use of the land as a recreational cross-country driving course.

The application seeks a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990 for use of the continued use of an existing driveway.

The application is supported by the following schedule of documents:

- Site Location Plan
- Statement of Grounds
- YouTube Video Posts Between 2015-2025
- Schedule of YouTube
- Extract From Picadilly Wood's Facebook Page
- Mid Sussex District Council's Non-Domestic Bills 2015-2025
- Mid Sussex District Council's Invoices for Business COVID Grant Payments 2020-2021
- Signed Affidavits of Carol Perver, John Perver, Jon Gale, John Michael Smith and Joseph Harrison.
- Letter From Sussex Cancer Fund

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 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 dwelling house, 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.*

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.

In this case, the relevant time period relating to the existing use is ten years as per 171B(3).

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.

Permitted Development

It is stated within the Applicant's Statement of Grounds that the course operated on a small number of days throughout the year in order to comply with Part 4, Class B of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as detailed below:

B. The use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of—

(a) the holding of a market;

(b) motor car and motorcycle racing including trials of speed, and practising for these activities, and the provision on the land of any moveable structure for the purposes of the permitted use.

Development not permitted

B.1 Development is not permitted by Class B if—

(a)

(b) the land in question is a building or is within the curtilage of a building;

(c) the use of the land is for the siting of any caravan except a caravan which—

(i) is a motor vehicle designed or adapted for human habitation; and

(ii) is sited on the land in connection with a festival;

(d) the land is, or is within, a site of special scientific interest and the use of the land is for—

(i) motor car and motorcycle racing including trials of speed or other motor sports, and practising for these activities;

(ii) clay pigeon shooting; or

(iii) any war game;

(e) the use of the land is for the display of an advertisement or

(f) the use of land is for camping, except when in connection with a festival.

ASSESSMENT

The Council's planning history records show that a previous planning permission was granted on site for the retrospective approval of a pine rain shelter. The description of development noted that the structure was to be used for forestry workers in adverse weather conditions. The application was approved in 2012 and whilst the Council was satisfied that this was the use of the land at the time, the submitted evidence within the current application shows the site's use as a 4-wheel off road driving course before and around the time of the application's submission and approval. The Statement of Grounds submitted by the Applicant notes in paragraph 2.2 that operations on site for the 4-wheel driving course started in 2007.

Paragraph 2.2 of the Statement of Grounds continues to describe that the activity was initially operated under the 28-day restriction in line with Part 4, Class B. Over time the course became more popular and Paragraph 2.7 notes that the use exceeded 28 days in the calendar year over a period of 15 years.

The application is accompanied by supporting evidence, including regular YouTube posts as well as reference to a Facebook Page associated with the site. The supporting YouTube schedule evidence references 97 months going back to 2015 out of a 113-month period with gaps in evidence both prior to and during the COVID 19 pandemic. A further review of the associated Facebook page provides 106 records going back to 2016. Both evidence types between the YouTube and Facebook Page show gaps between the various posts.

Further supporting evidence pursuant of the Lawful Development Certificate (Existing) had been provided, including Non-Domestic Rates Bills dating back from 2007. These records come in yearly instalments with gaps between the various financial periods. Additionally, records of invoices for business COVID Grant payments reference a period during 2020-2021 with time gaps present. A single letter dated from 2018 has also been provided as evidence from an external party. These forms of evidence are considered to be taken in isolation from one another.

On balance, it is considered that the evidence provided neither precisely nor unambiguously demonstrates that the site has operated for more than 28 days a year over a 10-year period. Moreover, the evidence shows intermittent gaps between accounts, thus failing to demonstrate the continuous use of the site.

As set out in The Town and Country Planning Act 1990, the burden of proof lies with the Applicant and the Planning Practice Guidance establishes that there is no room for doubt when assessing Certificate of Lawfulness (Existing). The level of information pursuant to establish the continuous use of the site over a 10-year period is considered to be insufficient.

CONCLUSION

It is considered that the applicant has not established, on the balance of probability, that the site has been in a continuous use as an off road 4-wheel drive course for 10 years up to the date of the Lawful Development Certificate (Existing) application. As such a certificate for lawful use cannot be issued.

Decision: Refuse

Case Officer: Stefan Galyas