

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/3163	Case Officer:	Peter Davies
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Erection of detached garage.		
Site:	27 Lucastes Road, Haywards Heath, West Sussex, RH16 1JN, , , ,		
Validation Date	10 Dec 2025	Overall Expiry Date:	16 Jan 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	27 Jan 2026
Target Date:	4 Feb 2026	Recommending Officer Signature:	<i>Peter Davies</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	1
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Signed and Agreed By:	<i>Steven King</i>	Date:	27 Jan 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/3163

**27 Lucastes Road, Haywards Heath, West Sussex, RH16 1JN, , ,
Erection of detached garage.
Mr David Hodkinson**

SUMMARY OF REPRESENTATIONS

One letter of support was received.

TOWN COUNCIL OBSERVATIONS

The Town Council defers this decision to Mid Sussex District Council's Tree Officer.

INTRODUCTION

The proposal is seeking a Lawful Development Certificate under section 191 of the Town and Country Planning Act 1990, to establish the lawfulness of a detached garage at 27 Lucastes Road Haywards Heath RH16 1JN.

Relevant Planning History

11/00409/FUL - Two storey rear and side extension. Single storey front extension. Permission

11/01453/FUL - Two storey rear and side extension. Single storey front extension. Permission

12/01561/FUL - Erection of a double garage. Appeal Allowed

DM/19/0291 - Proposed two storey extension to side and front and single storey extension to side. Appeal Allowed

DM/20/0502 - Proposed two storey extension to the front and side. Permission

DM/22/3373 - Single storey extension to the front and side of the property (revised application from DM/20/0502). Permission

SITE AND SURROUNDINGS

27 Lucastes Road is a west facing, two storey detached dwelling located on a corner plot. It is constructed of dark brick, with cream render used to the rear and tile hanging under the eaves of the gable ends. The roof is plain tiled and the windows are white uPVC. The property has benefited from a porch extension to the front, pitched roof dormer window to the rear and side and rear extensions. A double garage is located at the entrance to the dwelling.

The site is located within the built up area of Haywards Heath. It is set back in its plot with good sized private amenity space to the front, rear and side of the dwelling. Neighbouring dwellings are located to the north and east of the site, whilst the public highway is to the south and west. Along the shared boundary with the highway is a variety of mature hedging. The site is also within the Lucastes Conservation Area.

APPLICATION DETAILS

The application is seeking a Lawful Development Certificate under section 191 of the Town and Country Planning Act 1990 as to the lawfulness of the existing garage.

The garage is located to the front of the property with space for 2 cars and has a bedroom and bathroom above accessed by external stairs on the rear of the building. The garage has a width and depth of 5.95 metres and 5.95 metres. The garage has a pitched roof with an eaves height of 3.20 metres and an overall height of 5.80 metres, 3 no. rooflights are located on the east side facing the dwelling.

The submitted application documents state that the garage was substantially completed since 2014.

RELEVANT LEGISLATION

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 the 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 2014, which was when the building was substantially completed.

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 substantially completed 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 evidence that has been submitted consists of 5 dated photographs ranging from 15th July 2014 with the roof being tiled, 22nd July the roof completed, 6th December 2014 the stairs yet to be installed and 2nd February 2015 showing the external stairs installed.

Additionally, the Council's aerial imagery of 2018 shows the building to be in place with a tiled roof.

With the above in mind and in the absence of any contradictory evidence, it is considered that on the balance of probabilities, the garage have been substantially complete for a period of 4 years or more from the date of this application.

CONCLUSION

It is considered that on the balance of probabilities, the garage has been substantially complete for a period of 4 years or more from the date of the lawful development certificate application and a lawful development certificate in terms of section 191 of the Town and Country Planning Act 1990, as amended, can be issued.

Decision: Permission

Case Officer: Peter Davies