

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1351	Case Officer:	Stefan Galyas
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Lawful development certificate to confirm land has been in continuous use as residential curtilage associated with the dwelling house for a period exceeding ten years.		
Site:	Walstead Place Farmhouse, Scaynes Hill Road, Lindfield, Haywards Heath, West Sussex, RH16 2QG, ,		
Validation Date	27 May 2025	Overall Expiry Date:	19 Jun 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	18 Jul 2025
Target Date:	22 Jul 2025	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>Stephen Ashdown</i>	Date:	22 Jul 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1351

Walstead Place Farmhouse, Scaynes Hill Road, Lindfield, Haywards Heath, West Sussex, RH16 2QG,

Lawful development certificate to confirm land has been in continuous use as residential curtilage associated with the dwelling house for a period exceeding ten years.

Jackson

REPRESENTATIONS

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

CONSULTATIONS

Parish Council: No response received.

RELEVANT PLANNING HISTORY

LR/7/82 - Outline Application, Erection of Agricultural Dwelling, Garage with Turning and Parking Space. Access via Existing Farm Entrance. Permission 22.06.1982.

LR/035/82 - Reserved Matters Application. Two Storey Agricultural Dwelling with 4 Bedrooms and Double Garage. Permission 23.11.1982.

LR/059/99 - Use of land at Walstead Place Farmhouse for garden and recreational area. Refusal 13.04.2000.

DM/24/2503 - Removal of condition 6, in regards to LR/007/82 - the occupation of the dwelling shall be limited to a person solely or mainly employed, or, having ceased employment, last employed in the locality in agriculture as defined in section 290 (1) of the Town and Country Planning Act 1990, or in forestry (including any dependants of such a person residing with him or her) or a widow or widower of such a person. Permission 14.10.24.

SITE AND SURROUNDINGS

The Certificate of Lawfulness relates to Walstead Place Farm House, a detached two storey, four-bedroom dwelling which has previously been extended to the rear elevation through the addition of a single storey hipped roof conservatory. The property is accessed from the north-east of Scaynes Hill Road through a private access track which skirts the northwestern boundary of the cluster of buildings within the application sites vicinity.

With regard to policy constraints, the site is not located within any designated area.

APPLICATION DETAILS

The application seeks to establish the continuous use of a parcel of land as residential curtilage in association with the existing dwellinghouse.

The application seeks a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990.

The application is supported by the following schedule of documents:

- Location Plan and Block Plan
- Planning Statement

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.

ASSESSMENT

A lawful development certificate has previously been refused on site under LR/059/99 which also sought to establish the use of the land concerned with the current application as a garden and recreation area. It was noted in the refusals report that a fence had been erected on the northern boundary at the time of the application and that it was unclear for how long this fence had been in existence. Upon review of aerial photography, it appears that this fence marking the north-western boundary of the area has been in existence for over ten years.

The fences use as marking the perimeter of this area is not considered to necessarily denote that this has been used continuously as garden amenity space. The application does not come supported by any photographic evidence and only references property transaction records which seek to confirm that the farmhouse and residential cottages have been in residential use. These records do not confirm whether or not the land subject to the lawful development certificate has been used as residential curtilage and it is considered that further evidence would be required.

Following on from a site visit associated with the recent previous application DM/24/2503, site photos suggest that whilst the grassed area appears to have been mown, some trees have been planted and some benches positioned within, this does not confirm the land has been used as domestic curtilage.

When assessed on the balance of probabilities, the evidence provided is not considered to precisely or unambiguously demonstrate that the land has been used continuously as residential curtilage over a period of ten years.

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 Certificates of Lawfulness (Existing). The level of information pursuant to the current application to establish the parcel of lands continuous use as residential curtilage is considered to be insufficient.

CONCLUSION

It is considered that the applicant has not established, on the balance of probability, that the land has been in a continuous use as residential curtilage 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: Refusal

Case Officer: Stefan Galyas