

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2759	Case Officer:	Jessica Szollosi
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Certificate of lawfulness for the existing use of The Studio as a self contained dwelling		
Site:	The Studio, Keeper Knights, Copthorne Road, Copthorne, Crawley, West Sussex, RH10 3PB,		
Validation Date	27 Oct 2025	Overall Expiry Date:	25 Nov 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	11 Dec 2025
Target Date:	22 Dec 2025	Recommending Officer Signature:	Jessica Szollosi

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	11 Dec 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2759

The Studio, Keeper Knights, Copthorne Road, Copthorne, Crawley, West Sussex, RH10 3PB
Certificate of lawfulness for the existing use of The Studio as a self contained dwelling
Mr Jonathan Bowers

SUMMARY OF REPRESENTATIONS

No third-party letters or representations have been received.

SUMMARY OF CONSULTEES

None.

PARISH COUNCIL OBSERVATIONS

Worth Parish Council

No objection. Deferred to Planning Officer.

INTRODUCTION

The proposal is seeking a Lawful Development Certificate in terms of section 191 of the Town and Country Planning Act 1990, as amended, to establish the lawfulness for the existing use of the Studio as a self-contained dwellinghouse at Keeper Knights, Copthorne Road, Copthorne.

Relevant Planning History

None.

SITE AND SURROUNDINGS

The site is located within the Copthorne countryside off Copthorne Road. The studio is located to the north west of the main Keeper Knights dwelling. The surrounding area to the north and west of the site is rural in nature and forms part of the Burleigh Woodland. To the South of the site are outbuildings, a pond and pastures beyond the main dwelling. To the East of the site is a gravel parking space for the occupant of the studio and a gravel driveway used to exit the property.

The application site consists of a single-storey brown painted timber structure with uPVC windows, uPVC glass front door and a black slate roof. There is a modest private amenity space which runs alongside the front of the building. The site is accessed via a private road leading to the main Keeper Knights property and is located to the west of the site amongst the ancient woodland.

APPLICATION DETAILS

The application is seeking a Lawful Development Certificate in terms of section 191 of the Town and Country Planning Act 1990 as to whether the independent residential dwelling is lawful.

The documents submitted in support of the application include five signed and dated tenancy agreements, one electric installation certificate, one energy performance certificate, two landlord's insurance certificates, two deposit protection certificates, a termination of lease notice and a declaration statement. Evidence was provided as follows:

August 2016: Electrical Installation Certificate

August 2016: Energy Performance Certificate
July 2017-July 2018: First Tenancy Agreement
March 2018-March 2019: Second Tenancy Agreement (Per declaration statement, tenant stayed on to December 2020)
September 2019-September 2020: Landlord's Insurance Certificate
December 2020-December 2021: Third Tenancy Agreement (Per declaration statement, tenant stayed on to July 2022)
December 2020-December 2021: Deposit Protection Certificate
July 2022-July 2023: Deposit Protection Certificate
September 2022-September 2023: Landlord's Insurance Certificate
October 2022-October 2023: fourth tenancy agreement (Per declaration statement, tenant stayed on to April 2025)
February 2025: Notice of termination of lease
July 2025-July 2026: Fifth tenancy agreement
July 2025: Declaration Statement

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 2017, which was when the building was first used as an independent dwelling.

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 an independent residential dwelling 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 evidence that has been submitted consists of five signed and dated tenancy agreements for the period July 2017 to the date of application. Reasons have been given for gaps between tenancy agreements in the Declaration Statement as well as other supporting documentation. The most recent agreement is dated from July 2025 to present. The building is in residential use at the current time and this was confirmed on a visit to the site.

In respect of the amendments to the legislation in relation to concealment, it is not considered that this is a case of deliberate concealment. The breach of planning control was evident to the Council through the receipt of Council Tax and would have been evident to anyone visiting the site. Although the matter is a breach of planning control simply occupying the building in breach of planning regulations and not informing the Local Planning Authority does not amount to deliberate concealment.

With this in mind and in the absence of any contradictory evidence, it is considered that on the balance of probabilities, the building has been used as an independent residential dwelling continuously for more than four years from the date of this application.

CONCLUSION

It is considered that the applicant has established on the balance of probabilities that the building has been used as an independent residential dwelling continuously for more than four years 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: Jessica Szollosi