

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1837	Case Officer:	Katherine Williams
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Commencement of development pursuant to planning permission DM/22/1616 through the undertaking of material development works on-site.		
Site:	Land East Of Hurst Wickham Barn, College Lane, Hurstpierpoint, Hassocks, West Sussex, BN6 9AD, ,		
Validation Date	17 Jul 2025	Overall Expiry Date:	11 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	12 Aug 2025
Target Date:	11 Sep 2025	Recommending Officer Signature:	Katherine Williams

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	15 Aug 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1837

Land East Of Hurst Wickham Barn, College Lane, Hurstpierpoint, Hassocks, West Sussex, BN6 9AD,

Commencement of development pursuant to planning permission DM/22/1616 through the undertaking of material development works on-site.

Oliver Atkinson And Louisa Teather

SUMMARY OF REPRESENTATIONS

None received

SUMMARY OF CONSULTEES

None

PARISH COUNCIL OBSERVATIONS

The committee have no comment.

Introduction

A Lawful Development Certificate is sought to demonstrate that commencement of development pursuant to planning permission DM/22/1616 through the undertaking of material development works on-site.

This is an application to establish whether the development is lawful: this will be a legal decision where the planning merits of the proposed use cannot be taken into account.

Relevant Planning History

DM/25/0924 - Discharge of planning condition no 9 relating to planning application DM/22/1616. Granted

DM/25/0572 - Discharge of planning conditions 3, 4, 5, 6, 7, 8 and 10 in relation to planning application DM/22/1616. Granted

DM/22/1616 - Erection of 1 no. detached, two storey dwelling house with timber framed detached, two storey garage, including new access and entrance gates (amendments to implemented planning permission DM/17/0948 [as extended by DM/20/3713]). Granted

DM/21/0994 - Details approved for access to allow for the implementation of planning permission DM/17/0948 as extended by DM/20/3713 have begun. Granted

DM/20/3713 - Additional Environmental Approval relating to DM/17/0948. Granted

DM/17/0948 - Change of use from agricultural to residential, for erection of a three storey new build house on the field east of Hurst Wickham Barn, with access from a new driveway off College Lane. Granted

Site and Surroundings

The site is located off the eastern side of College Lane, within the countryside and outside the built-up area of Hurstpierpoint and within the setting of the Hurst Wickham Conservation Area.

To the north of the site are a number of neighbouring residential properties, which border onto the site with mature planting to the east and open field to the south.

A previous lawful development certificate was granted on the site (DM/21/0994) for a lawful start of a dwelling granted under DM/17/0948. The works constructed to demonstrate a start for this application consisted of the implementation of the access point.

Planning permission was granted under application DM/22/1616 for the erection of a dwellinghouse on 2nd August 2022. The description of the application stated

'Erection of 1 no. detached, two storey dwelling house with timber framed detached, two storey garage, including new access and entrance gates (amendments to implemented planning permission DM/17/0948 [as extended by DM/20/3713]). Granted'

Subsequent to this, pre-commencement conditions 3, 4, 5, 6, 7, 8, 9 and 10 were discharged before the 3 year time limit lapsed. There were no other pre-commencement conditions outstanding.

Application Details

A Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990 seeks to demonstrate that commencement of development pursuant to planning permission DM/20/2661 through the demolition of the existing buildings on the site.

The application is supported by the following schedule of documents:

- Application Form
- Location Plan
- Dated photographs of the site, 19th June
- Confirmation of commencement of works and invoice
- Statement of Case

This information states:

- Pre-commencement conditions have been discharged in time, 24th April 2025 and 21st July 2025
- Evidence of works on site, which including excavating and laying the driveway and laying ducting for services, water and gas mains pipes and foul sewerage. These works were undertaken between 2nd June 2025 and 17th June 2025. This evidence included dated photographs and invoice
- Section 56(2) of the Town & Country Planning Act 1990 confirms that development starts when a material operation is begun and "material operation" includes "laying out or construction a road or part of a road" (Section 56(4) refers).

Planning Legislation and Guidance

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'.

To implement a planning permission the developer must:

- a. Carry out a "material operation" (as defined in section 56 of the TCPA 1990); and
- b. Ensure all planning conditions requiring compliance prior to commencement of

development have been complied with.

Section 56 (2) TCPA 1990 states that development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. S.56 (4) lists what is meant by 'material operation':

'material operation' means—

(a) any work of construction in the course of the erection of a building;

(aa) any work of demolition of a building;

(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land which constitutes material development.'

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.

Planning Practice Guidance sets out that a LDC application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. This does not preclude another application being submitted later on, if more information can be produced (Paragraph: 005 Reference ID: 17c-005-20140306).

Assessment

As this is not a planning application, the planning merits of the use sought are not relevant. The test is to establish on the balance of probabilities that what is being sought in the LDC has occurred. The submitted evidence must be precise in order for the LPA to clearly say in a certificate, exactly what is lawful.

The planning permission was subject to a number of conditions, such as a 3-year time limit to implement it (running until 2nd August 2022). There were 8 No. pre-commencement conditions, which were discharged on 24th April 2025 and 21st July 2025.

Any work of laying a road or part of a road is held in case law to constitute a material operation denoting a lawful implementation of a development under Section 56(4) of the Town and Country Planning Act 1990. Therefore, the application is required to demonstrate that the works were carried out prior to 2nd August 2022.

On the facts presented it is clear that works have commenced by way of construction of part of the access and all pre-commencement conditions have been discharged. The works constructed are in accordance with the plans approved under DM/22/1616, which is materially different from the approved plans under the existing extant permission (DM/17/0948).

On the balance of probabilities, it is considered that the necessary works have been carried out and the pre-commencement conditions were discharged prior to the permission lapsing on 2nd August 2022.

Conclusion

It is considered that a lawful start has been made to implement planning permission DM/22/1616 and accordingly the LDC should be granted. As such, the remaining development approved under this reference can be lawfully carried out.

Decision: Permission

Case Officer: Katherine Williams