

## Delegated Decision

### Sign off Sheet

|                                              |                                                                         |                                        |              |
|----------------------------------------------|-------------------------------------------------------------------------|----------------------------------------|--------------|
| <b>Ref. No:</b>                              | DM/25/2902                                                              | <b>Case Officer:</b>                   | Deborah Lynn |
| <b>Application Type:</b>                     | Lawful Development Certificate -Existing                                |                                        |              |
| <b>Proposal:</b>                             | To retain outbuildings erected within 2m of the boundaries of the site. |                                        |              |
| <b>Site:</b>                                 | Wolding, Yew Lane, East Grinstead, West Sussex, RH19 2AZ, , ,           |                                        |              |
| <b>Validation Date</b>                       | 11 Nov 2025                                                             | <b>Overall Expiry Date:</b>            | 8 Dec 2025   |
| <b>Pre-Commencement Conditions Required:</b> |                                                                         | <b>Pre-Com Conditions Date Agreed:</b> |              |
| <b>Recommendation:</b>                       | Permission                                                              | <b>Recommendation Date:</b>            | 20 Jan 2026  |
| <b>Target Date:</b>                          | 6 Jan 2026                                                              | <b>Recommending Officer Signature:</b> | Deborah Lynn |

|                                                        |  |                               |   |
|--------------------------------------------------------|--|-------------------------------|---|
| <b>Date Legal Agreement Completed: (if applicable)</b> |  | <b>No of Representations:</b> | 1 |
|--------------------------------------------------------|--|-------------------------------|---|

|                              |                 |              |             |
|------------------------------|-----------------|--------------|-------------|
| <b>Signed and Agreed By:</b> | Stephen Ashdown | <b>Date:</b> | 20 Jan 2026 |
| <b>Comments:</b>             |                 |              |             |

## **MID SUSSEX DISTRICT COUNCIL**

**DM/25/2902**

**Wolding, Yew Lane, East Grinstead, West Sussex, RH19 2AZ, ,  
To retain outbuildings erected within 2m of the boundaries of the site.  
Mr Matthew Townsend**

### **SUMMARY OF REPRESENTATIONS**

One letter received from adjoining neighbour at Kilmore in support of proposal:

"I understand that there were several sheds or outbuildings, the vast majority of which were present, before i purchased my property. I'm aware of the garden room being built around 2018 and shed numbered as No.5 going in around 2020 from attending gatherings at Wolding. All of the other buildings were certainly present before 2015."

### **SUMMARY OF CONSULTEES**

Not applicable.

### **EAST GRINSTEAD TOWN COUNCIL OBSERVATIONS**

No comment.

### **INTRODUCTION**

This application seeks a lawful development certificate to retain existing outbuildings erected within 2 metres of the boundaries of the site.

### **RELEVANT PLANNING HISTORY**

03/2622/FUL - Two storey side extension. Permission granted 08.01.2004.

12/03901/FUL - Proposed single storey and 2 storey rear extension. Permission granted 20.12.2012.

### **SITE AND SURROUNDINGS**

Wolding is detached two storey 1920s dwellinghouse located on the eastern side of Yew Lane within the built up area of East Grinstead.

The dwellinghouse is located within a generous sized plot and has been previously extended to the side and rear with a two storey extension, plus ground floor additions to the rear. An attached garage has been erected on the northern side of the dwellinghouse whilst a detached garage and office is located to the southern side of the house.

A number of outbuildings are located within the rear garden.

### **APPLICATION DETAILS**

This application seeks a lawful development certificate under section 191 of the Town and Country Planning Act 1990 to retain existing outbuildings erected within 2 metres of the boundaries of the application site.

A plan included with the application refers to the following outbuildings:

- Side garage 1, attached to the northern side of the dwellinghouse.
- Office 2, an extension added to the rear of the detached single garage.
- Shed 3, a garden room on northern boundary.
- Mower shed 4, constructed in southeastern corner of garden
- Shed 5, constructed adjacent to southern boundary.

Floor plans and elevations have been submitted with the application in respect of the outbuildings numbered 2 to 4.

Supporting statements have also been provided referring to Schedule 2, Part 1, Classes A and E of The Town and Country (General Permitted Development) (England) order 2012 (as amended). The Statements conclude that the attached side garage whilst not complying with relevant permitted development criteria would be immune from enforcement action by reason of the length of time by which the addition has been in place. Likewise, whilst outbuildings 2, 3 and 4 are not found to comply with relevant permitted development criteria, the statement concludes as they have been in place for over 4 years, they would be immune from enforcement action.

No other information was initially submitted by the applicant, however following a request by the local planning authority for further evidence, an aerial photo from 2015 was subsequently submitted on the 4th December 2025, together with further correspondence on the 9th December which included supporting comments from a former neighbour and the following clarification regarding when the outbuildings were erected:

- Side garage 1 - constructed in 2013.
- Office extension 2 - constructed in 2008.
- Shed 3 - constructed in 2018.
- Mower shed 4 - constructed in 2004.
- Shed 5 - constructed in 2020.

## LEGAL FRAMEWORK

As this is an application to establish the lawfulness of the outbuildings and will be a legal decision, the planning merits cannot be taken into consideration. Therefore, there are no relevant planning policies.

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 National Planning Practice Guidance sets out that *'if a local planning authority has no evidence itself, nor from any others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided that the applicants' evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.'* Section 191(4) of the 1990 Act states 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 are set out under 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 section 115 of the Levelling-up and Regeneration Act 2023 which came into effect on the 25th April 2024. The amendments in part removed the previous enforcement period set out under sections 171(B) (1) and (2) which was four years and replaced it with a 10 year enforcement period.

However, transitional provisions have been put in place as set out under The Planning Act 2008 (Commencement no. 8) and Levelling-up and Regeneration Act 2023 (Commencement no. 4 and Transitional Provisions) Regulations 2024. Part 3, Section 5 sets out the transitional provision in this respect:

*'The amendments made to the 1990 Act by section 115 of the 2023 Act (time limits for enforcement) do not apply where—*

*(a) in respect of a breach of planning control referred to in section 171B(1) of the 1990 Act (1) (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.'*

Therefore, as the applicant claims that the outbuildings were erected between 2004 and 2020, the transitional arrangements set out above are considered applicable in this case. The applicant is required to demonstrate on the balance of probabilities that the outbuildings have been substantially complete for four years or more 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.

## **ASSESSMENT**

Limited evidence was initially submitted with the application to demonstrate that on the balance of probabilities, the outbuildings have been substantially complete for 4 years or more, having been constructed before 25th April 2024.

However, subsequent correspondence provided by the applicant on the 9th December 2025 included an e-mail from a former next door neighbour at Flodden who set out that the relevant outbuildings were erected in 2004, 2008, 2013, 2018 and 2020.

During the consultation period for the application, a representation was received from an adjoining neighbour at Kilmore in which he states that he moved next door to Wolding in 2015. He advises that he was aware of the garden room (shed 3) being erected in 2018 and shed no. 5 going in around 2020 from attending gatherings at Wolding and states that all the other buildings were present before 2015, although he does advise at the beginning of an e-mail to the applicant "to be honest I wasn't aware of any buildings going in as we wouldn't be able to see them from our property, if it helps I can send the following. Let me know what you think?"

Despite limited evidence provided by the applicant, Council mapping records which include aerial photography from 2018, show the attached garage 1, office extension 2 and shed 3 (garden room) all in place in 2018. Shed 5 cannot be seen which corroborates the applicant's correspondence if erected in 2020. Nor can mower shed 4 be seen in the aerial photograph but this is likely because it is obscured from view by established tree screening.

The local planning authority has also found photographs of the property online when previously listed for sale on Rightmove from December 2021 to June 2022. With the exception of mower shed 4, which is obscured by trees at the bottom of the garden, all the other outbuildings can be clearly seen. Floor plans of the outbuildings also form part of the online marketing details although there are no floor plans in respect of the mower shed. This evidence indicates that shed 5 was in place in December 2021, thereby supporting the applicant's assertion that the shed was erected in 2020. As this application for a lawful development certificate was submitted on the 11th November 2025, it is highly likely that shed 5 had been substantially complete for 4 years prior to the submission of the application.

Despite a lack of evidence in respect of mower shed 4, it was apparent from the Planning Officer's site visit that the outbuilding has been in place for several years. The outbuilding is sited at the rear southern corner of the property amongst established trees and is well weathered with moss covering the roof tiles.

With the above in mind and in the absence of any contradictory evidence, it is considered that on the balance of probabilities, the relevant outbuildings 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 outbuildings have 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: Deborah Lynn