

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2643	Case Officer:	Peter Davies
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Residential use of barns in connection with existing farmhouse		
Site:	Home Farm, Lewes Road, East Grinstead, West Sussex, RH19 3UN, , ,		
Validation Date	16 Oct 2025	Overall Expiry Date:	14 Nov 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	23 Dec 2025
Target Date:	11 Dec 2025	Recommending Officer Signature:	<i>Peter Davies</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	23 Dec 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2643

**Home Farm, Lewes Road, East Grinstead, West Sussex, RH19 3UN, ,
Residential use of barns in connection with existing farmhouse
Mr Pelham Olive**

SUMMARY OF REPRESENTATIONS

None received.

SUMMARY OF CONSULTEES

Southern Water

The development site is not located within Southern Water's statutory area for water supply services. Please contact South East Water who are the relevant statutory undertaker.

Southern Water has determined that the flow rate for the above site will remain consistent, so capacity is not an issue, and no Southern Water assets will be affected. Therefore, Southern Water has no objections to this proposal. Please note surface water should not be disposed of into a public foul sewer and must comply with the Hierarchy of H3 of the Building Regulations. For more details, refer to the Drainage and Waste Disposal: Approved Document H on the GOV.UK website. Any new connections to the public sewerage system will require a New Sewer Connection application (also known as a Section 106) to be submitted and approved by Southern Water. Due to legislative changes effective from 1st October 2011 regarding the ownership of sewers, it is possible that some previously private sewers, now deemed public, could be crossing the above property and may not be shown on Southern Water records. Therefore, if any additional sewers are discovered during construction, an investigation will be required to determine their condition, the number of properties served, and potential access methods before any further work can proceed on site.

TOWN COUNCIL OBSERVATIONS

No Comment.

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 part of the agricultural barn as residential and part of the dwelling Home Farm, Lewes Road, East Grinstead, RH19 3UN.

Relevant Planning History

None relevant.

SITE AND SURROUNDINGS

The application site is located to the west of Lewes Road at the end of a shared private lane. The site is located within the countryside with the built-up area boundary of East Grinstead approximately 375 metres to the north west.

The application dwelling is constructed from brick and hanging tile that has had a two-storey extension to the east side with agricultural buildings to the south and west. Also attached to the south side of the dwelling is a two storey cottage constructed from stone. The site is surrounded by fields neighbouring dwellings to the east that use the same shared private lane.

APPLICATION DETAILS

The application is seeking a Lawful Development Certificate under section 191 of the Town and Country Planning Act 1990 as to whether the agricultural barn has been in residential use in connection to the main dwelling.

The submitted application documents state that the rooms identified have been part of the main dwelling from 1963 with the pool, pool house and studio room converted in 1970. The rooms have remained in use as part of the dwelling since the conversion.

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 between 1963 and 1970, which was when the building was first used as residential in connection with the main dwelling.

As such the transitional arrangements as set out within the 2023 Act are considered appropriate and the relevant time period is ten years. The applicant is required to demonstrate on the balance of probabilities that the building has been used as residential continuously for more than ten 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 emails, 4 children of the occupiers of Home Farm from 1958 to 2024 as well as from the housekeeper who lived in the attached cottage and worked for the

family for 30 years up until 2012. These emails contain dates as to when these rooms were used as part of the main dwelling from 1963 and 1970 to 1990. There is no evidence to suggest that since 1990 that there has been any further change of use from the residential use as part of Home Farm.

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 in connection to the main dwellinghouse of Home Farm for more than 10 years from the date of this application.

Other Matters

Southern Water have provided comments on the proposal and state surface water should not be disposed of into a public foul sewer and that any new connection would require a new sewer connection application to be submitted and approved by Southern Water.

CONCLUSION

It is considered that the applicant has established on the balance of probabilities that the building has been used in connection with the main dwelling for more than 10 years from the date of the Lawful Development Certificate application and a Lawful Development Certificate can be issued.

Decision: Permission

Case Officer: Peter Davies