

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1607	Case Officer:	Stefan Galyas
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Certificate of Lawful Development Application for Existing Use - Extension of existing ancillary accommodation into adjacent garage building including small single storey link extension.		
Site:	Little Hickstead Farm, Hickstead Lane, Hickstead, Haywards Heath, West Sussex, RH17 5NT, ,		
Validation Date	23 Jun 2025	Overall Expiry Date:	22 Jul 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	13 Aug 2025
Target Date:	18 Aug 2025	Recommending Officer Signature:	<i>Stefan Galyas</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	1
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	13 Aug 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1607

Little Hickstead Farm, Hickstead Lane, Hickstead, Haywards Heath, West Sussex, RH17 5NT, Certificate of Lawful Development Application for Existing Use - Extension of existing ancillary accommodation into adjacent garage building including small single storey link extension. Mrs S Harrison

REPRESENTATIONS

There was one letter of representation received in response to the proposed development. The letter raised no objection and noted that the exterior of the building would not change in appearance.

CONSULTATIONS

Parish Council: *'As this is a lawful development application Twineham Parish Council have no comments to raise.'*

RELEVANT PLANNING HISTORY

06/02026/FUL - Proposed detached garage. Permission 15.11.2006.

07/00207/FUL - Conversion of existing garage into ancillary accommodation. Permission 26.03.2007.

09/03211/EOT - To extend the time limit for implementation of 06/02026/FUL - proposed detached garage. Permission 10.12.2009.

SITE AND SURROUNDINGS

The Certificate of Lawfulness relates to Little Hickstead Farm where a cluster of buildings are positioned to the end of a private access to the southern side of the highway edge. There are two ancillary annexes which are linked with a single storey component between within the cluster of building at Little Hickstead Farm.

Whilst the site is not set within any designated area, there is a nearby grade II listed building to the east of the site at Little Hickstead Place.

APPLICATION DETAILS

The application seeks to establish that the outbuildings have been continuously used as ancillary accommodation to main dwelling on site with a single storey link extension between.

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:

- Planning Statement Containing
 - o Site Photos
 - o Statutory Declarations
 - o Statements from Building Contractors
 - o Invoices and Receipts from Building Contractors for Garage Conversion Annexe Building
 - o Quote and receipt from Building Contractors for the Link Extension
- Existing Plans and Elevations

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 -

(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. 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 2013, which was when construction was completed to create the extension and subsequently the building was used as ancillary accommodation.

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 ancillary accommodation 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

Separate permissions had previously been granted on site for the conversion of the existing garage into ancillary accommodation internally. Furthermore, an extension of time was granted for the development of a detached garage originally approved in 2006. Whilst the garage was converted into ancillary accommodation, the other proposed detached garage ultimately became an ancillary annexe outbuilding as well. The two buildings were then joined through a single storey link between.

Historic aerial photography does not confirm the exact year of the links construction nor does the Council's record of building control applications. Nevertheless, further supporting information has been

provided as part of the current application to establish that the breach of planning control had taken place in excess of 4 years. A quote and receipt from the building contractors dated 10th April 2013 has been provided as well as invoices from 17th January 2013 to support the claim that the garage outbuilding permitted under 09/03211/EOT was converted into an ancillary annexe.

Whilst it states under sub-point 3 in reference to the aforementioned works carried out that: *'These works were undertaken to provide a larger home [...]'*. Upon inspection, the Council does not have an existing address point for the outbuilding to contradict the information provided. As such, the outbuilding is not considered to be a separate dwelling on site and instead of an ancillary use.

No information has been submitted by third parties which conflicts this evidence.

CONCLUSION

It is considered that there is sufficient evidence submitted by the Applicant which would indicate, on the balance of probabilities that the buildings have been used as ancillary accommodation to main dwelling on site with a single storey link extension between for more than 4 years. Accordingly, the Lawful Development Certificate (Existing) should be granted.

Decision: Permission

Case Officer: Stefan Galyas