

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/1754	Case Officer:	Katherine Williams
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Lawful Development Certificate for existing use in respect of the continuous use of the building as an office (Use Class E (G) (I) at Cherry Tree Farm.		
Site:	Cherry Tree Farm, Holtye Road, East Grinstead, West Sussex, RH19 3PP, , ,		
Validation Date	17 Jul 2026	Overall Expiry Date:	11 Aug 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	9 Sep 2026
Target Date:	11 Sep 2026	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:	11 Sep 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/1754

**Cherry Tree Farm, Holtye Road, East Grinstead, West Sussex, RH19 3PP, ,
Lawful Development Certificate for existing use in respect of the continuous use of the building
as an office (Use Class E (G) (I) at Cherry Tree Farm.
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SUMMARY OF REPRESENTATIONS

None received

SUMMARY OF CONSULTEES

None

TOWN COUNCIL OBSERVATIONS

No comment.

Introduction

A Lawful Development Certificate is sought to demonstrate that the lawful office use (Use Class E(g)(i)) of the building at Cherry Tree Farm.

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/18/0229 - Proposed repositioning of vehicle entrance to property. Granted

GR/109/98 - Revision to previous application (GR/17/98) to include extension of roof construction over adjacent open area and garage building. Granted

Site and Surroundings

The site is located off the northern side of Holtye Road, within the countryside and outside the built-up area of East Grinstead and within the High Weald National Landscape.

The locality is characterised residential ribbon development with woodland and fields beyond. The dwellings are positioned close to the highway with mature front boundary planting which partly obscures the properties from view. The residential property of Cherry Tree Farm is located to the east and is separated from the application building with its own access onto the Holtye Road.

The application building consists of a single storey timber building positioned along the northern side of an open area which is accessed by its own access onto the highway with a large parking area.

The building was granted planning permission under application reference GR/109/98 and included condition 3 which states:

'The building hereby permitted shall be used to provide animal housing and associated storage ancillary to Cherry Tree Farm and shall be used for no other purpose.'

Reason: To avoid an over intensive use of the site.'

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
- Block Plan
- Existing Floor and Elevation Plan
- Signed Statutory Declaration from the applicant and business owner: includes confirmation that the business was related to the building on 31st July 2015 upon the purchase of Cherry Tree Farm, and has operated the business from the building from that time to the present
- Statement of Truth from employee: includes confirmation that the business related to Cherry Tree Farm in July 2015 and has continuously occupied the building from that time to the present
- Supporting Document: includes invoices, banking and accountant details, and certificates from July 2015 to July 2026 which shows that the business does operate from Cherry Tree Farm

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'.

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 the period of 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 dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(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'

In this case the relevant time period relating an unauthorised change of use of the building, in breach of condition of permission GR/109/98, to an office use of the building is ten years.

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.

This is not a case where there has been any element of concealment. Therefore, the relevant time period for the applicant to demonstrate that the use of the building as an office is ten years.

From a site visit to the property it is clear that the building is used as an office for a commercial business with an office layout along with expected amenity areas (kitchen and W.C), with employees present during the visit.

On this basis the relevant test has been met and a LDC confirming that the office use of the building is lawful and can be granted.

Conclusion

To conclude it is considered that the applicant has established on the balance of probabilities that the lawful use of the existing building. Accordingly, a LDC for this use is approved.

Decision: Permission

Case Officer: Katherine Williams