

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/0240	Case Officer:	Tracie Axford
Application Type:	Lawful Development Certificate -Existing		
Proposal:	Existing Certificate of Lawful Development for the above property which has been used as dwelling for more than 4 years.		
Site:	Rock Lodge Cottage, Lewes Road, Scaynes Hill, Haywards Heath, West Sussex, RH17 7NG, ,		
Validation Date	17 Feb 2026	Overall Expiry Date:	11 Mar 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	15 Apr 2026
Target Date:	14 Apr 2026	Recommending Officer Signature:	<i>Tracie Axford</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	15 Apr 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/0240

Rock Lodge Cottage, Lewes Road, Scaynes Hill, Haywards Heath, West Sussex, RH17 7NG, Existing Certificate of Lawful Development for the above property which has been used as dwelling for more than 4 years.

Mr John Belliere

SUMMARY OF REPRESENTATIONS

None

SUMMARY OF CONSULTEES

None

TOWN/PARISH COUNCIL OBSERVATIONS

Lindfield Rural Parish Council made no comment

INTRODUCTION

The application seeks to obtain a certificate for the lawful use for the above property which has been used as a dwelling for more than 4 years.

RELEVANT PLANNING HISTORY

LR/01/00335/FUL - Removal of a mobile home and outbuilding and erection of domestic outbuilding
DM/22/0336 - Conversion of out building to new dwelling and extension to main house - Pre-application advice request

DM/22/2889 - Retrospective application to keep outbuilding as a dwelling for an agricultural worker.
Refused 27 April 2023

SITE AND SURROUNDINGS

The application site is located to the eastern side of of the A272, just south of the village of Scaynes Hill, and was an existing domestic outbuilding previously used for domestic storage and a home office. To the rear of the site is a parking area, Rock Lodge Vineyards and offices for BSW. The access road to the offices runs along the southern part of the site. To the north it is open countryside.

The building is a single storey timber clad building measuring approximately 9.8m in length and 5m in width. It has an overall height of 4 metres. The roof is pitched with clay tiles.

The application site is designated within the Mid Sussex District Plan as being within the countryside.

APPLICATION DETAILS

The application seeks a Lawful Development Certificate under Section 191 of the Town and Country Planning Act 1990 for the property which has been used as a dwelling for more than 4 years.

The application is supported by the following schedule of documents:

- o Building Works Guidance Letter
- o Copy of Decision Notice for DM/22/2889
- o Copy of Electricity Bill dated 4 May 2023 for the period 28 October 2022 to 01 May 2023

- o Covering Letter
- o Copy of Decision Notice for LR/01/00335/FUL
- o Emails between Joseph Swift (Senior Planning Officer MSDC) and John Belliere of BSW dated between November 2022 and April 2023.
- o Invalid Application Letter for DM/22/2889
- o Photos of Rock Lodge Cottage
- o Pre-application Advice letter for DM/22/0336
- o Outbuilding Plan
- o Elevation and Floor Plans
- o Site Survey
- o Supporting Letter (dated 29th April 2022)
- o Shorthold Tenancy Agreement dated 15th December 2021

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 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 on 15th December 2021, which was when the applicant allegedly moved into the outbuilding and started living there.

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 in question has been used as a single residential dwelling for a period of 4 years or more since the date of the LDC 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

As this is not a planning application, the planning merits of the development 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.

It must be established whether on the balance of probabilities that the building in question has been substantially complete and has been used as a dwelling for a period of 4 years or more since the date of the LDC application. That the evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. For the purposes of this application, it is necessary for the evidence to prove that the building in question has been substantially complete and had been used as a single residential dwelling prior to the 30th January 2022.

The applicant has provided information regarding a previous application (REF: LR/01/00335/FUL) which sought planning permission for the removal of a mobile home and outbuilding and erection of domestic outbuilding) which was subsequently granted. This establishes when the building was granted permission on site.

A Building Works Guidance Letter was provided as evidence, however this does not explicitly state the building that it refers to and states that MSDC do not have records from this period. It is therefore difficult to consider that this is evidence that the outbuilding has been used as a dwelling and will be disregarded. Plans and photographs have also been provided but they do not explicitly prove the use of the building.

The Shorthold Tenancy Agreement, dated 15th December 2021, states that the building, known at the time as "Barries", was let to the Tenant, Ms Victoria Jane Belliere. A copy of an electricity bill dated 28 October 2022 - 01 May 2023 has been provided as evidence showing the name as Ms Victoria Belliere and the address as 'Rock Lodge Annexe, Lewes Road, Scaynes Hill, RH17 7NG.'

The applicant has also provided information regarding a previous application (REF: DM/22/0336) which sought pre-application advice for the conversion of the outbuilding to a new dwelling and extension to the main house. The letter advised that planning permission would be required and detailed the policies that the application would have to satisfy to obtain permission. This application was made on the 1st February 2022.

The applicant has also provided the decision notice regarding the following application (REF: DM/22/2889) which sought retrospective planning permission to keep the outbuilding as a dwelling for an agricultural worker, which was subsequently refused. With this decision notice, a number of emails were included relating to this application. Although the application was refused, it demonstrates that the applicant was trying to obtain permission for this building to be used as a dwelling in September 2022.

It is therefore considered that the copy of the Shorthold Tenancy Agreement proves that the building has been used as a dwelling by Ms Victoria Jane Belliere since December 2021. The other evidence provided demonstrates the use of the building as a dwelling since then. There is no contradictory evidence suggesting that the building has not been used as a dwelling since the 15th December 2021.

A Planning Enforcement officer from MSDC visited the site in 2024. The applicant confirmed verbally that the building in question has been used as a dwelling since December 2021 and although a planning permission was refused, they had not heard anything since as no further action was taken by the enforcement team.

On this basis, the relevant test has been met and a LDC confirming that the use of the building as a residential dwelling 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 building as a residential dwelling has been substantially completed for four years. Accordingly, a LDC for the development as described in the application can be issued and the application is permitted.

Decision: Permission

Case Officer: Tracie Axford