



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/26/0057

The Laurels , Tower Hill, Horsham, West Sussex, RH13 0AQ

DESCRIPTION:

Application to confirm the erection of a single storey rear extension. (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

DC/04/2714	Conversion of outbuildings to a dwelling	Application Withdrawn	on 06.12.2004
DC/05/0724	Conversion of outbuildings to a dwelling	Application	Refused on 18.03.2005
DC/07/1810	Amend roof pitch to previously approved DC/05/0724 for conversion of outbuildings to a dwelling	Application	Refused 07.08.2007
DC/08/0751	Amend roof pitch to previously approved DC/05/0724 for conversion of outbuildings to a dwelling	Application	Refused on 02.04.2008
DC/10/0833	Non-material minor amendment following grant of planning permission DC/05/0724 (Conversion of outbuildings to a dwelling) to include various amendments to the exact size and position of windows and doors and the inclusion of 4 roof lights in the slate roof in order to give natural light and ventilation to 4 small rooms and slightly amend position of internal stud walls for kitchen area	Application Withdrawn	on 28.05.2010
DC/11/1156	Use of existing access to serve converted outbuildings together with access drive and hardstanding	Application	Permitted on 09.08.2011
DC/11/1613	To extend the living area by approximately 17 square metres (internal), to include a wood burner/closed fireplace	Application	Permitted 07.10.2011

PLANNING ASSESSMENT

Article (2) of Section 191 of the Town and Country Planning Act 1990 states:

"For the purposes of this Act uses and operations are lawful at any time if –

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force."

Section 191(4) of the Town and Country Planning Act 1990 states that:

"If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application...they shall issue a certificate to that effect; and in any other case they shall refuse the application."

F W Gabbittas v SSE and Newham LBC [1985] JPL 630 held that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the Local Planning Authority has no evidence of its own, or from 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 the Applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the "balance of probability".

The application is to confirm the erection of a single storey rear extension. (Lawful Development Certificate - Existing).

Applicant's Evidence:

- White and Son's Cover Letter
- Heritage Statement
- Stroma Building Control: Initial Notice OPP-055186 (Date: 18/03/2021)
- Stroma Building Control: Final Certificate OPP-055186 (Date: 28/05/2021)
- Site Images
- Location Plan
- Block Plan
- Pre Existing Elevation
- Pre Existing Floor Plan
- Existing Elevation
- Existing Floor Plan

Horsham District Council's Evidence:

- Planning History:
 - Application DC/04/2714
 - Application DC/05/0724
 - Application DC/07/1810
 - Application DC/08/0751
 - Application DC/10/0833
 - Application DC/11/1156
 - Application DC/11/1613
- Google Earth Satellite Imagery

Planning History

The dwellinghouse has a long planning history. The dwelling was allowed under appeal (APP/Z3825/A/05/1182728) for application DC/05/0724 which converted the existing outbuildings (workshop / garage) into a dwellinghouse. Subsequent application including DC/08/0751 sought an altered roof form and was also allowed at appeal (APP/Z3825/A/08/2080967). Non-material

amendments were sought under DC/10/0833 with additional work under DC/11/1613 to increase the footprint were both approved.

DC/08/0751 (APP/Z3825/A/08/2080967) was considered by the Inspector as an alternative to the permitted scheme under DC/05/0724 (APP/Z3825/A/05/1182728) rather than as an amendment to the scheme. As such, the Inspector reapplied the conditions attached to the previous scheme to the decision of DC/08/0751 (APP/Z3825/A/08/2080967). This included condition 3 which removed permitted development rights of the dwelling. The wording of the condition is detailed below:

- 3 *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order or without modification), no development within Classes A, B, C, E, & F of Part 1 of Schedule 2 to the Order shall be carried out within the site without the prior approval in writing of the local planning authority.*

Discussion

The application seeks to confirm that an extension constructed on the western side / rear of the property known as The Laurels is lawful by demonstrating that the extension was completed more than 4 years from the date of submission of this application. The statement details that the proposal falls within the permitted development size parameters for a single storey extension and has been in place for over 4 years and thus lawful through the passage of time.

As outlined above, permitted development rights were removed for the property under DC/08/0751. As such, this application's main enquiry is directed at how long the structure has been in place with sizing of the built form immaterial to the determination of this application.

Section 191 of the TCPA 1990 allows an application to be made to confirm whether a development is lawful. This includes situations where development has become lawful through the passage of time under Section 171B. In essence, if a breach of planning control has continued for a specified period, it becomes immune from enforcement and is therefore treated as lawful. The current immunity period for a breach of planning control is ten years, starting from either the date the use changed or the date the building works were substantially completed. In this case, the key dates are those on which the extension reached substantial completion.

Section 115 of the Levelling-up and Regeneration Act 2023 (LURA) amended the previous four-year rule in England, extending it to ten years for all development. However, transitional provisions in Regulation 3(b) and 5(a) of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 (SI 2024/452) mean that this change does not immediately apply to operational development substantially completed by 24 April 2024. In practical terms, any operational development finished before 25 April 2024 can still rely on the four-year immunity period until 25 April 2028.

The included Planning Statement details that the erected extension abides by the limitations as set out under those afforded by permitted development rights. The planning statement contends "[t]he extension was substantially completed by 28/05/2021 as stated by the building control certificate showing the same date of issue. The initial notice of works was issued on 18/03/2021 and confirmed by then that the applicant had at that point undertaken works associated with the construction of 'single storey rear extension'. The statement then details that this can be corroborated with aerial images on Google Earth.

The included Stroma Building Control Final Certificate (OPP-055186) dated 28/05/2021 is a document issued by an approved inspector confirming that construction work complies with building regulations. It would be considered that this would represent an identified completion date of the structure. Given this, it would be considered the development was substantially completed before 24 April 2024. On review of Google Earth Imagery, the first time the structure is observable in imagery is 9 June 2021. This tallies with the completion date given in the final certificate as prior to 2021, no structure is observable. The structure is observable in all imagery since 9 June 2021 to most recent available imagery of 14 May 2025.

As highlighted above, “any operational development finished before 25 April 2024 can still rely on the four-year immunity period until 25 April 2028”. Given this, it is considered that the development has been sited in excess of 4 years given the time elapsed and thus considered lawful by virtue of time. The Council hold no evidence which refutes this.

Summary

It is considered that the erection of a single storey rear extension at The Laurels, Tower Hill, Horsham has been sited in excess of 4 years from the point of submission and thus a Certificate of Lawful Development (Existing) can therefore be approved on this basis.

Recommendation: Application Permitted

- 1 It has been demonstrated on the balance of probability that the extension outlined in red on the attached plan has been substantially complete in excess of 4 years from the date of the application.

DELEGATED

Case Officer sign/initial JBurrowes Date: 18/02/2026

Authorising Officer sign/initial TDale Date: 11.03.2026

PLAN

