Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/25/0987
Little Slinfoldland, The Old Dairy, Stane Street, Five Oaks, West Sussex, RH14 9AZ

DESCRIPTION:

Application to confirm the continuous use of The Old Dairy as a self-contained independent dwelling for a period in excess of four years (Lawful Development Certificate Existing)

RELEVANT PLANNING HISTORY:

BL/81/00	Change of use of dairy to ancillary residential accommodation and change of use of agricultural land to residential Site: Little Slinfoldland Stane Street Five Oaks	Application Permitted on 14.08.2000

PLANNING ASSESSMENT

The application relates to a Lawful Development Certificate (Existing) to confirm the continuous use of the Woodstore building as a self-contained residential dwelling (Class C3) on a date four years prior.

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."

Summary of Applicant's Evidence

- Location Plan TQRQM25104150716114
- Block Plan: CLD 0425/682/01
- Existing Ground Floor Plan: CLD 0425/682/02
- Existing First Floor Plan: CLD 0425/682/03
- Planning Statement: P-029a, REV 1
- Tenancy Agreements 2019-2026
- Statutory Declarations (16.06.2025)
- Bank Statements – Rental Payments
- Bank Statements – Council Tax Bills
- Other Evidence

Summary of Council's Evidence

- Consultation Revenues Team – Confirming Persons Registered
- Elections Team – Confirming Persons Registered
- Neighbour Testimonies

- Aerial Photograph dated 2001, 2007, 2021 and 2018
- Application documents and site photographs

Discussion

This application seeks a Lawful Development Certificate (Existing) under Section 191 of the Town and Country Planning Act 1990 to confirm that the building known as The Old Dairy, situated at Five Oaks Farm, has been in continuous use as a self-contained, independent residential dwelling (Class C3) for a period in excess of four years. The application site comprises a part single, part two-storey building with a gross internal area of approximately 66sqm, located within the wider curtilage of Five Oaks Farm and to the rear of the main residence known as Little Slinfoldland.

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 Gabbitas 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 applicants, Mr and Mrs Morris, assert that The Old Dairy has been used as an independent residential dwelling since January 2003. The building was originally converted from a former dairy facility into ancillary residential accommodation following the grant of planning permission under reference BL/81/00 in August 2000. It is stated that following initial ancillary occupation by the applicants' children, the building became a self-contained unit and was rented independently from January 2003 onwards.

It is of note that condition 5 of planning permission reference BL/81/00 states:

"The accommodation hereby permitted shall be occupied solely for purpose incidental to the occupation and enjoyment of Little Slinfoldland as a dwelling and shall not be used as a separate unit of accommodation.

Reason: The site is located within a rural area where it is the policy of the Local Planning Authority to strictly control the formation of additional independent units of residential accommodation and the use of the building as a separate residential dwelling would result in an unacceptable relationship with the existing dwelling and the existing agricultural buildings to the detriment of the amenities of the occupiers of the building and the existing dwelling."

Supporting evidence has been submitted in the form of a Planning Statement (Ref: P-029a, REV 1); statutory declarations from Mr Neil Morris, Mrs Penny Morris, and the current tenant; tenancy agreements spanning from 2019 to 2026; bank statements showing payment of rent and Council Tax; bills; and photographic evidence. Of particular relevance are the tenancy agreements and financial records which demonstrate the continuous independent use of the building from April 2019 to the present day, with no material link to the main dwelling. The statutory declarations are clear, precise, and unambiguous, providing detailed timelines of occupation and the nature of use.

Aerial photographs included within the submission, along with a Google Earth image timeline, confirm the physical presence of the building from at least 2005. While Council records also confirm that the property has been assessed for Council Tax as a separate residential unit since 20.02.2003, albeit that it is noted that the property was listed as empty between 19.12.2005 and 02.01.2006.

In legal terms, Section 191(4) of the Act requires that a certificate be issued if the local planning authority is satisfied that the use described is lawful. The burden of proof rests with the applicant and

must meet the standard of the “balance of probability”. This is supported by relevant case law, including F W Gabbitas v SSE and Newham LBC [1985] JPL 630, which affirms that applicants’ evidence does not need to be corroborated by independent sources provided it is sufficiently clear and unchallenged.

In this case, the Council’s evidence and the applicant’s claims provide sufficient detail and preciseness to demonstrate, on the balance of probability, that the building known as The Old Dairy has been in continuous and independent residential use for at least four years prior to the date of this application. Furthermore, the transitional provisions under Section 171B, as amended, maintain that this four-year threshold is applicable for cases where the use was established prior to 25 April 2024, which is satisfied here.

On the balance of probability, it is concluded that The Old Dairy has been used as a self-contained, independent dwelling for a continuous period in excess of four years, and that such use was established prior to 25 April 2024. The submitted statutory declarations and supporting documentation are deemed sufficient to satisfy the requirements of Section 191 of the Town and Country Planning Act 1990. The application is therefore recommended for approval.

Recommendation: Application Permitted

Conditions:

1 It has been demonstrated on the balance of probability that the building and land as outlined in red on the attached plan has been in situ and used as an independent residential dwelling for a period in excess of four years from the date of the application.

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/25/0987
(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		NONE	16.06.2025
Block plan		CLD 0425/682/01	16.06.2025
Floor plan	Existing Ground	CLD 0425/682/02	16.06.2025
Floor plan	Existing First	CLD 0425/682/03	16.06.2025
Supporting Statement	Planning	P-029a	16.06.2025
Photos	Aerial	Appendix B	16.06.2025
Supporting Docs	Statutory Declarations Neil Morris, Penny Morris and Alex Aston	Appendix C- E	16.06.2025
Supporting Docs	Tenancy Agreements 2019-2026	Appendix F - L	16.06.2025
Supporting Docs	Bank Statements	Appendix M - N	16.06.2025
Supporting Docs	Bills	Appendix O	16.06.2025

Supporting Docs	Other Evidence	Appendix P	16.06.2025

DELEGATED

Case Officer sign/initial Shazia Penne Date: 07.08.2025

Authorising Officer sign/initial Tamara Dale Date: 11.08.2025