



GH PLANNING

SUPPORTING STATEMENT

FOR:

**LAWFUL DEVELOPMENT CERTIFICATE TO ESTABLISH
THE LAWFULNESS OF AN EXISTING STABLE AND
STORE BUILDING**

AT:

**YEW TREE COTTAGE, FOREST ROAD, COLGATE, WEST
SUSSEX, RH12 4SZ**

Applicant: Mr Martin Davis

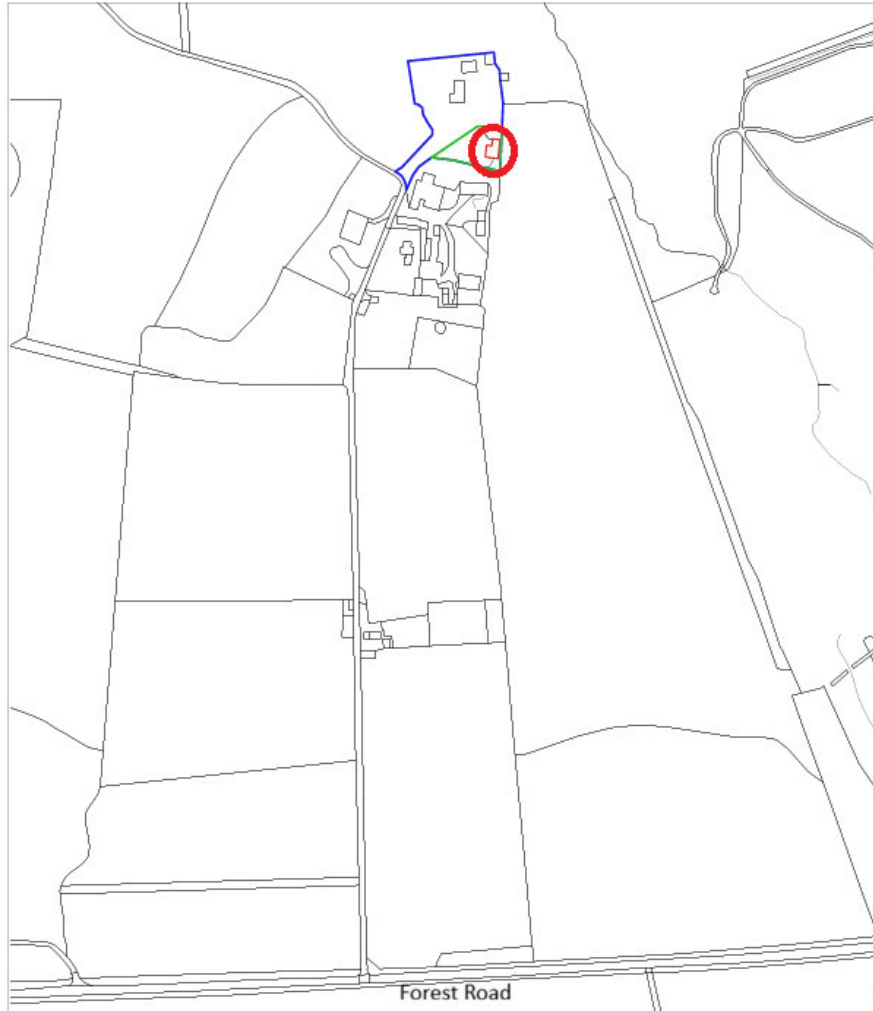
March 2026

1 INTRODUCTION AND BACKGROUND

- 1.1 This statement is written on behalf of the applicant to support a Certificate of Lawfulness application made under S.191 of the Town and Country Planning Act 1990 (as amended).
- 1.2 This is to establish that the existing stable and store at Yew Tree Cottage, Forest Road, Colgate is lawful through the passage of time. This is because the building was substantially complete more than four years before the date of this application.
- 1.3 This statement will set out the details of the site and its planning history before providing a description of the development which has taken place.
- 1.4 Evidence will then be presented to demonstrate that the building works have been substantially complete for more than four years.
- 1.5 Accordingly, it will be demonstrated beyond reasonable doubt that the development is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990.

2. THE SITE AND THE DEVELOPMENT

- 2.1 The site lies approximately one mile northeast of Colgate. Access is via a private drive that runs north from Forest Road.



Location Plan

- 2.2 The site is in a countryside location outside any built-up area boundary. It is also within the High Weald National Landscape. To the north, east and west of the site is woodland. Beyond the woodland to the east is Cottesmore Hotel, Golf and Country Club. To the south is Shepherds Field Farm.
- 2.3 The property is made up of the main dwelling and its garden, a detached garage with first floor annex, a paddock and stable / store building.
- 2.4 The application building sits to the southeast of the house, on the opposite side of the drive and is located along the eastern edge of the paddock.

Planning History

DC/10/2320

Proposal: Retention of alterations to garage approved under CG/31/03 to create first floor annexe accommodation, together with five velux roof windows, one solar panel, one external staircase, one first floor door, lean-to ground floor extension, one ground floor window, and repositioning of ground floor door and window on west elevation.

Decision: Approved 11/03/2011

CG/31/03

Proposal: Two storey extension / granny annexe and detached garage

Decision: Approved 19/12/2003

CG/1/93

Proposal: Two storey extension

Decision: Approved 19/03/1993

The Development

- 2.5 The application building is a single storey timber building comprising two stables and a store. It measures 12.17m in width by 3.89m deep (5.9m deep including the roof overhang) and is 3.16m high. The building sits on a concrete base which extends to the front of the two stables and measures 12.4m wide by a maximum 7.39m deep (projecting 3.53m forward of the front wall of the stables).



- 2.6 The applicant has owned the property since 2003. Work started on the construction of the building in 2007 and was complete by the end of that year. The building has been used to stable the applicant's horses since 2007 with the horses ('Bramy' and 'Tulley') exercised in the adjacent paddock. The store has been used to house feed and tack.

3. LEGAL CONTEXT

- 3.1 This application seeks to establish the lawfulness of the stable / store at Yew Tree Cottage, Forest Road, Colgate.
- 3.2 This is on the basis that the development that has taken place was substantially complete more than four years before the date of this application.
- 3.3 Section 191 of the Town and Country Planning Act 1990 (as amended) provides for the making of an application and states that if any person wishes to ascertain whether:

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

- 3.4 It goes on to say that:

(2) For the purposes of this Act, uses and **operations are lawful at any time if—**

(a) **No enforcement action may be taken in respect of them** (whether because they did not involve development, were permitted development or **because the time period for enforcement action has expired**), and

(b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.

- 3.5 Section 171B sets out the time limits for enforcement, with the following relevant to this application:

(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—

(a) in the case of a breach of planning control in England, **ten years** beginning with the date on which the operations were substantially complete

3.6 It is of note that the ten-year limit for operational development only came into effect on 25 April 2024. Prior to that, the time limit was four years.

3.7 For breaches that took place before 25 April 2024, the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 sets out transitional arrangements.

3.8 This confirms that development becomes immune from enforcement if no action is taken within four years for substantial completion for a breach consisting of operational development, where substantial completion took place before 25 April 2024.

3.9 The relevant time period for assessment is therefore four years.

3.10 As regards process S.191 (4) confirms that:

(4) 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.....described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

4. SUPPORTING EVIDENCE

- 4.1 It is understood that burden of proof rests with the applicant and the test of the evidence is the 'balance of probability'
- 4.2 Planning policies are not relevant in the context of Lawful Development Certificates as the purpose is to determine whether the existing operational development carried out is lawful for planning purposes under S.191 of the Town and Country Planning Act 1990.
- 4.3 National Planning Practice Guidance advises that the applicant is responsible for providing sufficient information to support an application. In the case of applications for existing development, if a LPA has no evidence itself, nor 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 the certificate on the balance of probability.
- 4.4 It is thus for the applicant to provide sufficiently precise and unambiguous evidence to demonstrate that the application building was substantially complete more than four years before the date of this application, on the balance of probability.

Evidence

Aerial Photograph 1 – 01/05/2007



*Google Earth Pro V 7.3.6. 10441, Colgate, West Sussex
Image date 01/05/2007 © 2025 Infoterra Ltd and Bluesky*

- 4.5 This shows that construction had started with the concrete base for the building visible in May 2007. The photograph also appears to show construction materials stored.

Aerial Photograph 2 - 31/08/2012



*Google Earth Pro V 7.3.6. 10441, Colgate, West Sussex
Image date 31/08/2012 © 2025 Bluesky*

- 4.6 Despite being sat in the shade of the trees to the east, the roof of the finished building is clearly visible, along with the fenced paddock.

Aerial Photograph 3 – 06/06/2013



*Google Earth Pro V 7.3.6. 10441, Colgate, West Sussex
Image date 06/06/2013 © 2025 Google Earth*

4.7 In this image the building and concrete hardstanding are clearly visible.

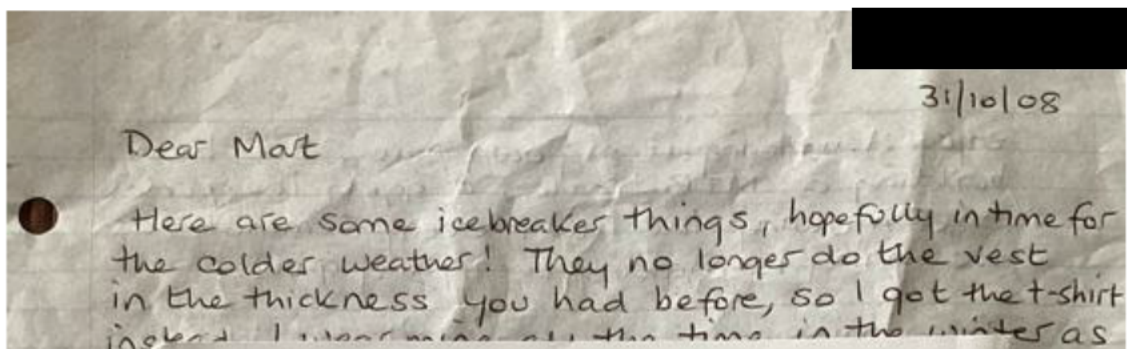
Aerial Photograph 4 – 26/09/2018



*Google Earth Pro V 7.3.6. 10441, Colgate, West Sussex
Image date 26/09/2018 © 2025 Google Earth*

4.8 This provides a clear image of the stable / store.

Letter from the applicant's sister dated 31/10/2008



Been missing you. Hope the stable is habitable for horses and it's not too cold + miserable. It was good to have a quick chat yesterday. I guess it is quiet for you too with [REDACTED] moved out. Time to enjoy your space without the teen hassles!

Need to post this now. Give my love to [REDACTED] everyone. [REDACTED]
lots + lots of love [REDACTED]

- 4.9 This dated letter refers to the stable building at 31/10/2008 (full copy at Appendix 1).

Applicant's email dated 06/11/2008

- 4.10 The applicant's response to the above letter (full copy at Appendix 2) also references the stables, stating:

From: martin davis [REDACTED]
Sent: 06 November 2008 19:30
To: [REDACTED]
Subject: general ni

Hope the garden is coming on, missing you too [REDACTED]
[REDACTED] seem too have settled happily into their new luxury homes - so far. Speak with you soon i do hope you reconsider setting up your own Facebook page it is supposed to be really easy to do and then you can see all of [REDACTED] photos as he goes along and communicate with him on it.

Lots of love
Mart xxxx

Assessment of the Evidence

- 4.11 It is evident from the above photographs that construction had started by May 2007 with the laying of the concrete base for the building.
- 4.12 The applicant has advised that the building was substantially complete later that year. While there is no photographic evidence available to show the completed building in late 2007, the applicant's sisters' letter from October 2008 and subsequent email from the applicant dated November 2008 corroborates the dates. The building can also clearly be seen in Photograph 2 from August 2012.
- 4.13 In addition, the shape of the building in the photograph (taken December 2025) tallies up with the footprint visible in the aerial photographs from 2012, 2013 and 2018, with the wider and deeper stables to the south and the smaller tack room and feed store to the north.



Existing Building December 2025

- 4.14 This demonstrates that the building has been in situ for at over 13 years which is far more than the four years needed to demonstrate lawfulness through the passage of time.
- 4.15 It is possible that the Council's own aerial imagery will fill the gap between May 2007 and August 2012. However, with our evidence showing the building in situ and substantially complete more than four years before the date of this application, this is not essential.

Concealment

- 4.16 The aerial photographs show the stable building has not been deliberately hidden or disguised, with the build clearly visible the aerial photographs above.

5. CONCLUSION

- 5.1 We consider that the photographic evidence and email and letter evidence above provide sufficient information to satisfy the local planning authority of the lawfulness of the building. This is because the building can clearly be seen as a substantially completed building from August 2012 onwards which is more than four years from the date of this application.
- 5.2 Sufficient evidence has thus been provided to meet and exceed the requirement to demonstrate the lawfulness of the stable building 'on the balance of probability'.
- 5.3 As such, the immunity required has accrued under S.171B of the Town and Country Planning Act 1990 (as amended) and the Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 and we respectfully request a certificate be issued to that effect.

31/10/08

Dear Mart

Here are some icebreaker things, hopefully in time for the colder weather! They no longer do the vest in the thickness you had before, so I got the t-shirt instead. I wear mine all the time in the winter as

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enjoyed pottering at my own pace. I've been building a MTB track, digging the garden and mowing the lawn every 5 minutes as the spring is making everything grow.

Been missing you. Hope the stable is habitable for horses and it's not too cold + miserable. It was good to have a quick chat yesterday. I guess it is quiet for you too with [REDACTED] moved out. Time to enjoy your space without the teenage hassles!

Need to post this now. Give my love to [REDACTED] everyone. [REDACTED]
lots + lots of love [REDACTED]
[REDACTED]

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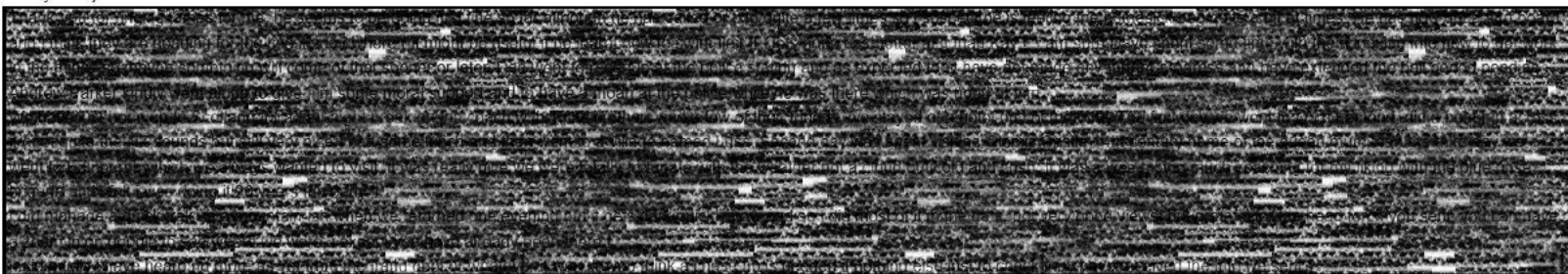
Need to post this now. Give my love to [REDACTED] + everyone. [REDACTED]
lots + lots of love [REDACTED]
[REDACTED]

Appendix 2

From: martin davis [REDACTED]
Sent: 06 November 2008 19:30
To: [REDACTED]
Subject: general hi

Dear [REDACTED]

Received your package today, thank-you very much the items were fine and i love them. I hope all is well there as i expect [REDACTED]s back home by now, i am sure it will be quite a testing time for you both for a while until you adjust.



Hope the garden is coming on, missing you too and [REDACTED] seem too have settled happily into their new luxury homes - so far. Speak with you soon i do hope you reconsider setting up your own Facebook page it is supposed to be really easy to do and then you can see all of [REDACTED] photos as he goes along and communicate with him on it.

Lots of love
Mart xxxx