

MME PLANNING SERVICES

LDC – Use of Building as Self-Contained, Independent
Dwelling for more than 4 years

at

‘The Dwelling’, Alderwood Ponds, Horsham Road,
Steyning, West Sussex, BN44 3AA

Planning Statement

Ref: P-096

May 2026

Version 1



Figure 1: Site Location / Red Line Area

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1. Introduction

- 1.1 This statement is submitted in support of an application for a Certificate of Lawfulness (Existing) under Section 191 of the Town and Country Planning Act (1990) relating to the use of 'The Dwelling', Alderwood Ponds, Horsham Road, Steyning, West Sussex, BN44 3AA, and outlined in red on the accompanying map at **Appendix A**, as a self-contained, independent dwelling (C3 Use Class).
- 1.2 The building identified as 'The Dwelling' has been in continuous use as a self-contained, independent residential dwelling in the existing arrangement since at least August 2019 and before 25 April 2024, pursuant to the current legislative requirements, up to the present day. The application to which this statement relates seeks confirmation from the Local Planning Authority that the use of 'The Dwelling' as a self-contained, independent residential dwelling is lawful.
- 1.3 This report sets out the following:
- Background and relevant history.
 - The appropriate tests and considerations.
 - The evidence submitted to support the application.
- 1.4 The appendices provide all relevant evidence, including 3no sworn Statutory Declarations.

2. Site, Surroundings and Background

- 2.1 The application site relates to a single-storey building with a Gross Internal Area (GIA) of approximately 101sqm located on the western side of Horsham Road, Steyning. The subject building, known as 'The Dwelling', as shown outlined in red within **Appendix A** and the accompanying plans (which also includes its associated garden and curtilage), is a self-contained, independent residential dwelling (C3 Use Class) and has been occupied by Ms Julie Andrews (the Applicant) and her partner, Mr Terry Surrey, as their main and sole residence, continuously since August 2019 up to the present day.
- 2.2 The application building known as 'The Dwelling' is located within the wider site of Alderwood Ponds and consists of a brick plinth and timber cladding making up the external walls, a tiled roof and UPVC fenestration.

- 2.3 Alderwood Ponds / the wider site is owned by Mrs Pamela Holmes, who is the mother of the Applicant, and has been in her / her family's ownership since June 1995. The wider site comprises a recreational coarse fishing site, with three ponds set within a landscaped area, grasslands, trees and wooded areas. This is an active business which the Applicant runs on behalf of her mother, who is elderly and in poor health.
- 2.4 Planning permission was granted at Alderwood Ponds in 2017, under planning reference DC/17/0863 for: 'Demolition of existing nissen hut storage building, construction of new building on same site for storage of site maintenance equipment, customer reception, provision of first aid facility, and water management equipment'. Following this, a subsequent application was submitted and approved in 2019 in respect of this permitted building under planning reference DC/19/0170 for: 'Change of use of part of existing building to provide overnight accommodation for use by Bailiffs for the supervision of Anglers and fisheries'.
- 2.5 Following the granting of the initial permission in 2017 under planning reference DC/17/0863, works for the construction of the permitted building known as 'The Dwelling', commenced in summer 2018 and were carried out by Mr Terry Surrey / his company. However, the construction works were not carried out in accordance with the approved plans, as permitted under the above reference number, or the subsequent 2019 permission, under planning reference DC/19/0170.
- 2.6 Following consideration of the permissions, and discussions between Mrs Pamela Holmes and her family, the permitted building was erected as an independent residential dwelling. The works were completed in July 2019, as shown on the attached plans accompanying this application. **Appendix B** shows the subject building in situ from 2020, which is the earliest date available on Google Earth's historic mapping following the completion of 'The Dwelling'.
- 2.7 'The Dwelling' consists of a living / dining room / kitchen, a shower room, entrance hall, WC and an office / storage room. The area to the east of 'The Dwelling', as indicated on the accompanying plans, is used as a private garden, with the extent of the red line area, as shown at **Appendix A**, making up the associated residential curtilage. A retaining wall was erected to the north and east of 'The Dwelling', owing to the topography of the site.

- 2.8 Following the completion of the construction works to erect 'The Dwelling', [REDACTED] moved into 'The Dwelling' in August 2019 and have occupied this as a self-contained, independent dwelling and as their main and sole residence continuously up to the present day.
- 2.9 [REDACTED], as the owner of the site, has allowed [REDACTED] to live in 'The Dwelling' free of charge on the basis that the Applicant manages the business operating from the wider site. This arrangement has continued from the date of their first occupation up to the present day. Given this arrangement and the very close relationship between the owner of the site, [REDACTED] no formal tenancy agreement is in place. It is also noted that [REDACTED] has his own dry lining / building company, and has no involvement in the operation of the fishing business.
- 2.10 Utilities such as water and electricity connected to 'The Dwelling' are drawn from the main supply serving the wider site, apart from gas, which is paid for and supplied separately. 'The Dwelling' is not currently registered for Council Tax payments.
- 2.11 The works for the erection of the building known as 'The Dwelling', as a self-contained, independent dwelling, were substantially completed and the use (together with the associated garden area and curtilage) as indicated at **Appendix A** and the accompanying plans, has continued for more than 4 years prior to the date of this application. In addition, the works to create 'The Dwelling' were completed and use as a self-contained, independent dwelling established prior to 25 April 2024, pursuant to the current legislative requirements.

3. Tests & Considerations

- 3.1 The planning merits of the use, operation or activity on the land are not relevant in the assessment of a Certificate of Lawful Use or Development. In considering whether to issue a certificate, an assessment must be made entirely on the factual evidence available to officers.
- 3.2 The Town and Country Planning Act 1990, Section 191(1)(b) states that: Any person who wishes to ascertain whether any operations which have been carried out in, on, over or under land are lawful, they can apply to the Local Planning Authority for a lawful development certificate. S.191(2) states that the uses can be lawful if the time of enforcement has expired.

- 3.3 S.191(4) of the 1990 Act states that: If the Local Planning Authority is satisfied that the operation is lawful, it must grant the certificate. In any other case it must refuse the certificate. The applicants have the burden of proving that the use is lawful on the balance of probability i.e., that it is more likely than not that the use is lawful.
- 3.4 National Planning Practice Guidance (NPPG) states that: The applicant is responsible for providing sufficient information to support an application, although a Local Planning Authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A Local Planning Authority is entitled to canvass evidence if it so wishes before determining an application.
- 3.5 If a Local Planning Authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.
- 3.6 In the case of applications for existing use, if a Local Planning Authority has no evidence itself, nor any 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'.
- 3.7 Section 171B (2) of the Act establishes that unauthorised development involving the change of use of buildings (or parts of buildings, as per the definition within Section 336) to dwellings becomes immune from enforcement action after a period of 4 years has elapsed. This remains the case even where a breach of condition is involved (FSS v Arun DC [2006] EWCA Civ 1172).
- 3.8 Section 171B (1) of the Act establishes that unauthorised operational development becomes immune from enforcement action after a period of 4 years has elapsed.
- 3.9 Section 115 amends section 171B(1) and (2) of the Act to extend the time period in which local planning authorities can take enforcement action against unauthorised development in England from 4 to 10 years.
- 3.10 In terms of the transitional provisions for enforcement time limits, these latest amendments will not apply where the operational development or change of use to a dwelling was substantially completed before 25 April 2024, which is the case in this instance.

- 3.11 Case law (Gabbittas v SSE and Newham LPC [1985] JPL 630) and Government advice in paragraph 8.15 of Annex 8 of Circular 10/97 state, in an appeal against the refusal of a lawful development certificate, that the appellant's evidence does not need to be corroborated by independent evidence to be accepted.
- 3.12 The appellant's version of events should be accepted unless: It is not sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probabilities - The LPA has evidence of their own that contradicts or makes the appellant's version of events less than probable - The LPA has evidence from a third party which has the same effect.

Considerations

- 3.13 It is contended that, on the balance of probability, the evidence submitted is sufficiently clear, concise and substantive to demonstrate that the building known as 'The Dwelling', which is the subject of this application and is shown outlined in red at **Appendix A**, has been in continuous use as a self-contained, independent residential dwelling, without any intervening uses, for a period in excess of 4 years. In addition, the works to create 'The Dwelling' were completed and use as a self-contained, independent dwelling established prior to 25 April 2024, pursuant to the current legislative requirements.
- 3.14 The following chapter will outline that the Applicant can demonstrate that the building has existed on the site and that this has been in continuous use as a self-contained, independent residential dwelling for a period in excess of 4 years. Indeed, it is highlighted that the evidence provided by the Applicants shows that the use of the application building as a self-contained, independent residential dwelling has taken place for over six (6) years.

4. Submissions and Evidence

- 4.1 As set out in Section 3, the test to satisfy in relation to Lawful Certificate applications for existing uses is 'on the balance of probability' provided the applicant's evidence is sufficiently precise and unambiguous.

4.2 'The Dwelling' building, and its associated curtilage, as indicated at **Appendix A**, has been in use as a self-contained, independent residential dwelling since August 2019. Use as a self-contained dwelling would amount to a material change in the use. Section 55 (1) of the Act confirms that material changes of use constitute development.

4.3 In this instance and as detailed above, 'The Dwelling' has existed in its current arrangement for a period in excess of 4 years and has been in continuous use as a self-contained, independent residential dwelling for in excess of 4 years.

4.4 We submit the following evidence in support of this submission:

1. Statutory Declarations from:

- [REDACTED]
- [REDACTED]
- [REDACTED]

2. Other Evidence:

- i. Supporting Letter from [REDACTED] (Owner of the Site)
- ii. Photographic Evidence
- iii. Additional Evidence

Statutory Declarations

4.5 We submit that the building known as and referred to as 'The Dwelling' has been occupied and used continuously for a period in excess of 4 years as a self-contained, independent residential dwelling.

4.6 We have provided statutory declarations from the Applicant, the Applicant's partner Mr Terry Surrey and a local neighbour, Mr Jonathan White, who is a local neighbour and acquaintance of the Applicant and the owner of the site. These are contained within **Appendices D, E and F** confirming the details and timescales of the use and occupancies, as set out in section 2 of this statement.

4.7 The declarations are clear, concise and unambiguous and are considered to be of significant weight in setting out the existing situation in relation to the application building and its use as a self-contained, independent dwelling.

Photographic Evidence

- 4.8 **Appendix B** includes Google Earth images from 2020 to 2025, which show the building in situ. It is noted that there are mature trees located in close proximity to the application building, which do limit the aerial views to some extent.
- 4.9 **Appendix C** includes internal and external photographs of the building / site which is the subject of this application. This also includes dated photographs showing the dwelling under construction and occupied.

Additional Evidence

- 4.10 In addition to the above, this application is supported by other evidence.

Supporting Letter

- 4.11 A supporting letter is provided at **Appendix G** from the Applicant's mother and owner of the site, [REDACTED] which corroborates the statutory declarations provided. As mentioned in the supporting letter, it was [REDACTED] intention to provide a statutory declaration in support of this application. However, due to her current poor health, she has not been able to leave home to swear a statutory declaration before a solicitor, and has provided the supporting letter instead.
- 4.12 **Appendix H** includes additional evidence, including gas invoices for deliveries of gas to the dwelling / site from Jefferson Gas, an email from Jefferson Gas [REDACTED] confirming supply of gas to the dwelling / site, Gas Safe repair email(s) and invoice to [REDACTED] and a mobile telephone line account screenshot showing the site address and the Applicant's name.

5. Summary and Conclusion

- 5.1 In conclusion, it is contended that the above and attached supporting evidence clearly demonstrates, on the balance of probability, that the works for the erection of the building known as 'The Dwelling', as a self-contained, independent dwelling, were substantially completed and the use (together with the associated garden area and curtilage) as indicated at **Appendix A** and the accompanying plans, has continued for more than 4 years prior to the date of this application.

- 5.2 In addition, it has been shown that the works to create 'The Dwelling' were completed, and use as a self-contained, independent dwelling established prior to 25 April 2024, pursuant to the current legislative requirements.
- 5.3 Statutory declarations have been provided which confirm the above and the history of the application building and its use as a self-contained, independent dwelling. Additional evidence has also been provided to support the application.
- 5.4 The Planning and Compensation Act 1991 states that planning enforcement action against breaches of planning control must be taken within 4 years in respect of a residential use or operational development.
- 5.5 As the use of the building known as 'The Dwelling' (together with the associated garden area and curtilage), as indicated at **Appendix A** and the accompanying plans, as a self-contained, independent dwelling has taken place continuously for a period in excess of 4 years and the works to erect the dwelling were substantially completed in its current form prior to 25 April 2024, the building / use is now immune from enforcement. A Certificate of Lawful Development is therefore sought to establish that the use is lawful.

6. List of Appendices

- 6.1 The following Appendices are included together with this statement –
- Appendix A – Location / Site Plan
 - Appendix B – Aerial Photographs
 - Appendix C – Photographs of Building / Site
 - Appendix D – Statutory Declaration – Ms Julie Andrews
 - Appendix E – Statutory Declaration – Mr Terry Surrey
 - Appendix F – Statutory Declaration – Mr Jonathan White
 - Appendix G – Supporting Letter – Mrs Pamela Holmes
 - Appendix H – Other Evidence