



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/26/0244

Chandlers, West Chiltington Lane, Broadford Bridge, West Sussex, RH14 9EA

DESCRIPTION:

Confirmation that planning permission ref: DC/15/1744 (Replacement dwelling) was lawfully commenced and can be completed. (Lawful Development Certificate - Existing).

RELEVANT PLANNING HISTORY:

DC/15/1744	Replacement dwelling	Application Permitted on 22.09.2015
DISC/18/0229	Approval of details reserved by conditions 3 and 6 on dc/15/1744	Application Permitted on 14.09.2018

SITE LOCATION & APPLICATION DESCRIPTION

The application site, Chandlers, sits within the Parish of West Chiltington, located outside of any built-up area boundary and comprises a single-storey residential dwelling. The site is not within a conservation area and there are no Article 4 Directions or applicable enforcement notices covering the site.

In 2015, planning consent was granted for the erection of dwelling to replace to existing dwelling on the site, under reference DC/15/1744. Two Pre-Commencement Conditions attached to the permission, conditions 3 and 6, were subsequently discharged under the application, ref DISC/18/0229. This application seeks a Certificate of Lawful Development to confirm that DC/15/1744 was lawfully commenced and can be completed.

PLANNING ASSESSMENT

Section 191(4) of the Town and Country Planning Act 1990 state 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."

The Court held in *F W Gabbitts v SSE and Newham LBC* [1985] JPL 630 that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their 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".

Applicant's Evidence

- Location Plan

- DC/15/1744 – Decision Notice
- DC/15/1744 – Approved Plans
- Supporting Statement
- Photographs detailing the following:
 1. Photo of Site context showing foundations and existing dwelling, undated
 2. Photo of Foundation Trench L-Shape View, undated
 3. Photo of Foundation Trench and Poured Concrete (View 1), undated
 4. Photo of Foundation Trench and Poured Concrete (View 2), undated
 5. Photo of Foundation Trench Depth Profile, undated
- County Building Control – Site Inspection Record
 This record is written by Simon Wrigley of County Building Control, addressed to the applicants and giving the location of the development as Chandlers, West Chilton Lane. The reference provided is APP/2116 and the letter is dated 02/06/2025. The description of works is detailed as being 'New dwelling replacement', and continues as follows:

'Date of site inspection – 17.09.2018.'

Works have commenced on a small section of excavation. Depth 1.2mm deep into stiff clay, no trees within the zone of influence affecting foundation depths at this point. Ok to concrete this section'.

Council's Evidence

- Site's Planning History
- Site's Building Control History
- HDC Planning Compliance Response
Comments received
- Aerial Photographs

This application seeks a Certificate of Lawful Development to confirm that DC/15/1744 was lawfully commenced and can be completed. Consent was granted for the erection of replacement dwelling on the 22nd September 2015, with condition 2 requiring the development to begin before the expiration of three years from the date of the permission. As such, the development must have commenced by the 22nd September 2018. The permission imposed two pre-commencement conditions, conditions 3 and 6, both of which were subsequently discharged under the application DISC/18/0229, on the 14th September 2018. As such there were no conditions preventing the lawful commencement of the development.

The applicant's submitted Planning Statement does not provide a date in which the development commenced, but states that a small section of trenches were excavated. A site inspection was then subsequently undertaken by County Building Control on the 17th September 2018, in which the surveyor confirms the foundations were suitable and confirmed concrete could be laid. Photos have been supplied by the applicant showing this small section of foundation, which are undated, although the digital signatures confirmed these as recently taken. Aerial images also do not provide corroboration, with Google Earth images showing the foundations as not present in the August 2018 image, but are present within the April 2020 image, with no available images in-between. The Council's internal Building Control record for the development, in the form of an Initial Notice, confirms the same reference supplied by County Building Control Ltd, matches that of the Site Inspection Record, submitted as part of this application. Whilst the submitted evidence is limited and not independently corroborated, there is no substantive evidence before the Council to contradict the applicant's account and in the absence of evidence to the contrary, the submitted evidence is accepted on the balance of probabilities in that the development commenced prior to the permission expiring on the 22nd September 2018.

It is also important to consider whether the works undertaken amount to commencement. The photos and supporting documentation show that the development comprised the digging of a trench and laying of foundations to serve the replacement dwelling. In line with Section 56 of the Town and Country Planning Act 1990, '*development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out*' S56(2). A '*material operation*' is defined under S56 (4)(b), as '*the digging of a trench which is to contain the foundations, or part of the foundations, of a building*'.

Using the images supplied and cross-referencing these with the approved plans and aerial images, it is confirmed that the section of foundation installed, relates to the northern point of the replacement dwelling. By measuring the plans and aerial images, it is confirmed that the foundation is in the approved position and such work amounts to a material operation and therefore lawful commencement.

Conclusion:

The Court held in *F W Gabbitts v SSE and Newham LBC* [1985] JPL 630 that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their 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".

On the balance of probabilities, it is concluded that planning permission DC/15/1744 was lawfully implemented and remains extant. Accordingly, the proposed completion of the approved works would be lawful, and the Certificate of Lawful Development should be granted.

Recommendation: Application Permitted

Conditions:

- 1 It has been demonstrated, on the balance of probability, that planning permission DC/15/1744 was lawfully implemented prior to the relevant date and can be completed.

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/26/0244

(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 & Site plan	Approved Location and Site Plan, 2015, DC/15/1744	1709/1	12.02.2026
Location plan		NONE	12.02.2026
Supporting Statement	Supporting Statement	NONE	12.02.2026
Photos	Site context showing foundations and existing dwelling	NONE	12.02.2026

