



DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:

DC/25/2063

Brangwyn, Station Road, Henfield, West Sussex, BN5 9UP

DESCRIPTION:

Confirmation that planning permission ref: DC/21/1262 (Erection of two semi-detached dwellings) was lawfully commenced and can be completed (Lawful Development Certificate - Proposed).

RELEVANT PLANNING HISTORY:

DC/20/0885	Demolition of existing shop and dwelling and construction of 10.No one-bedroom apartments with parking forecourt and ten domestic storage buildings to rear with associated bicycle parking and refuse storage	Application Refused on 12.08.2020
DC/20/2200	Demolition of existing shop and dwelling and construction of 10.No one-bedroom apartments with parking forecourt and ten domestic storage buildings to rear with associated bicycle parking and refuse storage.	Application Refused on 17.02.2021
DC/21/1262	Erection of two semi-detached dwellings	Application Permitted on 31.08.2021

SITE LOCATION & APPLICATION DESCRIPTION

The application site is located to the east of Station Road, within the designated built-up area boundary of Henfield. The site comprises a parcel of undeveloped land situated amongst residential and commercial developments. The site is not within a conservation area, and there are no Article 4 Directions or enforcement notices covering the site.

In 2021, planning consent was granted for the erection of two semi-detached dwellings on the site. This application seeks a Certificate of Lawful Development (Proposed) to confirm that planning permission, DC/21/1262, was lawfully implemented within the required 3-year timescale and can therefore be completed.

PLANNING ASSESSMENT

Article (2) of Section 192 of the Town and Country Planning Act 1990 states:

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

Article (5) of Section 193 of the Town and Country Planning Act 1990 states:

"A certificate under section 191 or 192 shall not affect any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted unless that matter is described in the certification"

Applicant's Evidence

- Cover Letter, containing time and date stamped photographs and DC/21/1262 decision notice.
- Location Plan
- Block Plan
- Video of soakaway and current condition of the site - dated 19/02/2026
- Total Building Control - Initial Notice
- Total Building Control - Connectivity Plan
- Site Plan – Location of soakaway
- Building Control – Approved Inspector Certificate of Unit Achievement

It is noted that proposed plans have been submitted relating to the previously refused applications and not DC/21/1262, as such these have not been considered as part of this application.

Council's Evidence

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

The application seeks confirmation from Horsham District Council that the development approved under planning permission DC/21/1262 was lawfully implemented and therefore can lawfully be completed in accordance with the approved scheme of development and any relevant conditions.

Consent was granted for the 'Erection of two semi-detached dwellings' on the 31st August 2021, 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 31st August 2024. The permission did not impose pre-commencement conditions (below slab level) preventing the lawful commencement of the development if not discharged.

The applicant's submitted Cover Letter details that the development commenced on the 29th July 2024, which comprised the digging and creation of a soakaway to provide drainage for surface water of the approved dwellings. As part of this application, the applicant has provided the following supporting evidence from the site itself:

- 1) Photo - 29/07/2024. Photo shows contractors on site.
- 2) Photo x3 - 05/08/2024. Photo shows a ditch having been dug
- 3) Photo - dated unreadable. Photo shows shingle within the ditch
- 4) Photo - 06/08/2024. Photo shows soakaway crates on site
- 5) Site Plan - showing location of soakaway in relation to the approved dwellings
- 6) Video - 12/02/2026. Video showing soakaway and pipework and current condition of the site.

The original photos have not been supplied, with screenshots being provided and as such, it is not possible to corroborate the times and dates provided. Whilst the applicant has provided documentation relating to Building Control records, it is noted that these cannot be relied upon, given they are dated after the 31st August 2024. Internal council records show the Building Control Initial Notice was received post this date, on the 10th September 2024. Whilst the submitted evidence is limited and not independently corroborated, there is no substantive evidence before the Council to contradict the applicant's account. In the absence of evidence to the contrary, it is accepted on the balance of probabilities, that works may have taken place on site prior to the expiration of the permission.

It is also important to consider whether the works undertaken amount to commencement. The applicant has stated the work related to the digging and creation of a soakaway to provide drainage for surface water of the approved dwellings.

There are a number of appeal decisions that confirm which works can amount to a material operation and therefore lawful commencement. This approach was confirmed in the Rossendale decision (18/02/2021), where the Inspector found that the excavation of a trench and laying of a drainage pipe constituted a material operation under Section 56(4), sufficient to implement the permission. Referring

to *Spackman v SSE* (1977), it was accepted that drainage works can amount to commencement even where foundations have not been constructed, and that such works are not de minimis given the low threshold.

In this instance, a video has been supplied showing a completed soakaway on the site, dated 12/02/2026, which is to serve the development. However, within the Application Form submitted under DC/21/1262, the applicant provided details of drainage, stating that surface water will be disposed of by the Mains Sewer and not by a Soakaway, with Foul Sewage also being disposed of the Mains Sewer. The Council's Drainage Officer has confirmed that under no circumstances, can a soakaway be connected to a surface water sewer or a foul sewer, or a combined sewer, in that Southern Water do not allow this.

Whilst the applicant may have installed a soakaway, the works undertaken are materially different from the drainage details supplied under planning permission DC/21/1262. As such, the Local Planning Authority are not satisfied that the works evidenced form part of the development as approved. Furthermore, Building Regulation (Part H) does not permit connection to a mains sewer via soakaway. This was confirmed by the Council's Drainage Officer, who stated "*under no circumstances can a soakaway be connected to a surface water sewer or a foul sewer (or a combined sewer) ... Southern Water do not allow this*"- thus, it cannot be said that the works undertaken can realistically form part of the drainage scheme on the site related to the approved scheme. Whilst Building Control documents have been supplied, in the form of an Initial Notice, the Surveyors Unit of Achievement and a Connectivity Plan, none of these confirm that the soakaway relates to the approved development.

Given the discrepancies between the approved drainage details and the works evidenced on site, together with the limitations in the supporting documentation, it cannot be reasonably concluded that the operations undertaken were carried out in connection with the development permitted under DC/21/1262.

As such, the council is not satisfied that relevant material operation has been undertaken in connection with the approved development within the required timeframe.

Conclusion:

The application seeks a Certificate of Lawful Development (Proposed) to confirm that planning permission DC/21/1262 was lawfully implemented and remains extant.

However, the Council has not been provided with sufficient information to satisfy it that relevant material operations associated with planning permission DC/21/1262 were lawfully commenced within the required timeframe, or that such operations were undertaken in connection with the approved development.

The supporting documentation submitted, including photographic evidence, video footage and Building Control records, is not sufficiently precise, unambiguous or corroborated to demonstrate, on the balance of probability, that a material operation was carried out in accordance with the relevant planning permission prior to its expiration.

Therefore, having regard to Section 192 of the Town and Country Planning Act 1990, the Local Planning Authority is not satisfied that the operations described would be lawful, and the Certificate of Lawful Development (Proposed) is refused.

Recommendation: Application Refused

Reason for Refusal:

1. It has not been demonstrated, on the balance of probability, that planning permission DC/21/1262 was lawfully implemented prior to the relevant date.

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/25/2063

Schedule of plans/documents **not approved:**

Plan Type	Description	Drawing Number	Received Date
Supporting Statement	Cover letter	NONE	10.12.2025
Block plan		NONE	10.12.2025
Location plan		438pp20	10.12.2025
Supporting Statement	Total Building Control - Initial Notice	NONE	18.03.2026
Supporting Statement	Total Building Control - Connectivity Plan	NONE	18.03.2026
Plans	Existing plans, elevations and sections (dated July 24)	01	18.03.2026
Supporting Statement	Building Control - Approved Inspector Certificate of Unit Achievement	NONE	18.03.2026
Photos	WhatsApp Image 2026-02-19	NONE	19.02.2026
Photos	WhatsApp Video 2026-02-19	NONE	19.02.2026

DELEGATED

Case Officer sign/initial Sam Nye Date: 02/04/2026

Authorising Officer sign/initial RHERMITAGE Date: 14.04.2026