

Arun District Council
Civic Centre
Maltravers Road
Littlehampton
BN17 5LF

22 July 2026

Dear Sir/ Madam

Applicant: Mr and Mrs S Morgan

Site: Sheepfold (formerly The Sheiling), Bilsham Lane, Yapton BN18 0JX

Proposal: Certificate of Lawfulness of Existing Use for the use of an existing building as a residential dwelling.

Please find enclosed a completed electronic application for the above proposal.

The application seeks a Certificate of Lawfulness under Section 191 of the Town and Country Planning Act 1990 for the use of an existing building as a residential dwelling at Sheepfold, Bilsham Lane, Yapton. To assist with the determination of the application, it is accompanied by a site location plan and a sworn statement from Mr Simon Morgan the owner of the dwelling and who has owned the site for over 35 years.

By way of background, prior approval was granted for the change of use of the building to residential use with external alterations to enable it to function as a dwelling under Class Q permitted development right in January 2017 (Y/77/16). The permission was implemented in April 2019 and was completed to the extent it was capable of occupation in March 2020. The building control completion certificate was not, however, issued until October 2020 due to delays around the time of Covid.

The building was first occupied by a tenant in January 2021 and after the tenancy ended, the owner and his wife took occupation in August 2021. In October 2023, the owners applied for planning permission for an extension and alterations to the dwelling along with an increase in size of the residential curtilage (Y/95/23). During the consideration of the application, it was identified by the planning officer that the original permission had not been undertaken in accordance with the permitted development which requires the development to be completed

within three years of the date of the prior approval. This meant the development should have been completed by 09 January 2020 when in fact it was not completed until later that year and the dwelling not subsequently occupied until January 2021. The planning officer stated that an extension could not be permitted to an unauthorised building and therefore the application was withdrawn in January 2024.

The Local Planning Authority was therefore aware towards the end of 2023 that the dwelling was not completed in accordance with the permitted development right and was unauthorised. In discussions with the planning officer at the time, however, there were no concerns raised about the principle of the development or any harm to amenity arising from it and no action was subsequently taken by the Local Planning Authority or regularising application requested. The LPA must have considered it 'not expedient' to take any action on the basis that the change of use had been permitted in 2017 under the prior approval process and was a material factor in determining to take no further action.

Since that time, the dwelling has continued to be occupied, firstly by the owner and his wife who remained there until December 2024 and then by their daughter who still resides there.

Although no action has been taken by the LPA, the dwelling technically remains unauthorised. It was discussed with the planning officer at the time that the best remedy would be to apply for a Certificate of Lawfulness in due course, and this application is now submitted to seek that Certificate.

Section 171B of the Town and Country Planning Act 1990 sets out the time limits for taking enforcement action. On 25 April 2024, s171B of the Act was amended by the LURA so that the time limit for taking any form of enforcement action is 10 years. This means that any operational development, material changes of use (including change of use to a dwelling) and breaches of condition now have to take place for more than 10 years before they become lawful. However, transitional provisions apply which means that development that was substantially completed before 25 April 2024 is subject to the former provisions of S171. These specified that no enforcement action could be taken in relation to the change of use of any building to use as a single dwellinghouse after the end of the period of four years beginning with the date of the breach. In this case, the change of use to a single dwelling was completed before 25 April 2024 and is therefore subject to the original 4-year rule.

The evidence supplied by the applicant in the form of a sworn statement confirms that the dwelling was first occupied by a tenant in January 2021 which is more than four years before the date of this application. Since that time, the dwelling has been continuously occupied apart

from a short break between the tenant and the owner taking occupation in August 2021. Case law has held that de minimis interruptions may not break continuity for the purposes of determining the lawful use and it will depend on fact and degree. In this case, the break was a matter of weeks whilst the owners undertook some redecoration and completed the sale of their previous property. There was clearly an intention for the use to continue and no abandonment took place that would break the lawful use. Furthermore, this gap falls outside the four years from the date of this application, (four years before the date of the application falls in June 2022), and there have been no breaks whatsoever since that time.

It is acknowledged that this application must be accompanied by sufficient factual information/evidence for a local planning authority to decide the application. The applicant's sworn statement clearly sets out the timeline of events and demonstrates unequivocally that the change of use to a dwelling took place more than four years ago.

The National Planning Policy Guidance states "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."

It is submitted that this application provides evidence that is precise and unambiguous and demonstrates that the change of use took place more than four years ago and is immune from enforcement action. On this basis, the development is now lawful and the Certificate should be granted.

I trust this application provides all the information required to enable you to determine the application, however should you require any further information, please do not hesitate to contact me.

Yours faithfully

Dawn Appleton

Dawn Appleton MRTPI
Senior Planning Officer
Henry Adams LLP