

Lawful Development Certificate Supporting Information

HIGHLANDS HOUSE, HIGHLANDS AVENUE, WOKINGHAM RG41 4SP
MICROSOFT OFFICE USER



1. Introduction

This statement has been prepared in support of an application for a Certificate of Lawful Existing Use and Development in relation to three domestic outbuildings, a gym/swimming pool, a garage and an outbuilding (herein referred to as the 'Log Cabin') providing ancillary living accommodation, that have been erected within the residential curtilage of Highlands House, Highlands Avenue, Wokingham RG41 4SP.

The statement sets out to demonstrate that this application must be allowed as it is demonstrated that, on the balance of probabilities, more than four years have passed from the substantial completion of all buildings with the Log Cabin forming part of the curtilage of Highlands House for more than ten years.

2. The Site

The plan below identifies Highlands House and its associate curtilage. The three domestic outbuildings that are the subject of this CLEUD are marked A, B and C. Building A is a gym/swimming pool, building B a garage and building C the Log Cabin providing living accommodation. All buildings are used solely for purposes ancillary to the enjoyment of the main dwellinghouse. Highlands House is owned by the applicants, Mr & Mrs Pike.



3. Site History

The site does not have any planning history within the past ten years. However, a planning application (ref 010964) for the proposed erection of a detached garage with playroom in the roof space was refused on 1 September 2001 and a further planning application (ref 021016) for the proposed erection of a detached triple garage was refused on 13 November 2002.

4. Legal Background

In accordance with Section 191 of the Town and Country Planning Act 1990 ("the 1990 Act"), an applicant may apply to the local planning authority ("LPA") for the issue of a Certificate of Lawfulness confirming that an existing use and / or development is lawful in planning terms.

The LPA must issue the requested Certificate of Lawfulness in the event that it is established, on the balance of probabilities, that the relevant time period for taking planning enforcement action against that existing use and / or development has expired (Section 191(3)(a) 1990 Act).

Key changes to planning enforcement legislation and procedure (in England) came into force on 25th April 2024. Specifically, Section 171B(1),(2) and (3) of the Town and Country Planning Act 1990 ('the 1990 Act') now provides that in respect of 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" in England "after the end of the period of (a)... ten years beginning with the date on which the operations were substantially completed" and in respect of a breach of planning control "consisting in the change of use of any building to use as a single dwelling house" as well as change of use generally "no enforcement action may be taken after the end of the period of...ten years beginning with the date of the breach". Prior to this legislation, the relevant immunity period for operational development and change of use to a single dwelling was four years.

However, the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations introduced transitional provisions for the application of this immunity period. These Regulations provide that where it can be shown that either the operations were substantially completed or the

changes of use to buildings to dwelling houses occurred before 25 April 2024, then the relevant immunity period will still be four years.

5. Information submitted in support of the application

The following Google Earth aerial images are submitted with this application to assist in determining when the three outbuildings were constructed.

- 5 September 2004
- 6 June 2013
- 23 June 2018
- 1 August 2023

The following Google Street View images are submitted to further demonstrate continuity of the built form:

- September 2016 (Buildings A/B)
- June 2019 (Buildings A/B)
- September 2023 (Buildings A/B)
- September 2016 (Building C)
- May 2018 (Building C)
- June 2019 (Building C)
- September 2024 (Building C)

This evidence collectively demonstrates that buildings A and B were substantially complete in 2004 with building C substantially complete in 2013, and all of the buildings have remained in situ since so that they are all now more than four years old. It is further clarified that whilst building C, the Log Cabin, provides for residential accommodation, this is for purposes ancillary to the enjoyment of the main dwelling house with the building currently occupied by Mrs Pike's elderly father. The evidence also demonstrates that the Log Cabin has formed part of the curtilage of Highlands House for over ten years with the main access to the Log Cabin being directly from Highlands House.

The evidence therefore satisfies the balance of probability test.

6. Conclusion

This application is for a Certificate of Lawful Existing Use and Development for the erection of three domestic outbuildings at Highlands House, Highlands Avenue, Wokingham and the use of the land upon which the Log Cabin sits forming part of the residential curtilage of Highlands House.

In considering this application, the relevant immunity period from when enforcement action for operational development can be taken is ten years beginning with the date on which the operations were and Country Planning Act 1990 Act unless it can be demonstrated that the buildings were substantially complete before 25 April 2024 when the relevant immunity period is four years in accordance with the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations . For the change in the use of the land, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

The relevant test for Lawful Use applications is the 'balance of probability'. The application is supported by Google Earth and Street View images that demonstrate that the buildings were substantially complete before 25 April 2024. The relevant immunity period from when enforcement action for operational development can be taken is therefore four years beginning with the date on which the operations were substantially completed. These images further demonstrate that buildings A and B were substantially complete in 2004 with building C substantially complete in 2013 and have remained in situ ever since. This is significantly in excess of four years prior to the date of this application. The images also demonstrate that the Log Cabin has formed part of the curtilage of Highlands House for a period in excess of ten years, being used for ancillary family accommodation. This satisfies the balance of probability test and demonstrates that these domestic outbuildings are lawful and form part of the curtilage of Highlands House.

On this basis, the LPA must issue the requested Certificate of Lawful Existing Use and Development pursuant to Section 191(3)(a) of the 1990 Act.