



# Delegated Report

## *(Existing) Lawful Development Certificate Application*

**Planning Application No:** 20230998

**Location:** Oaklands Farm, Priestwood Road, Meopham, Gravesend

**Description:** Application for a Lawful Development Certificate in respect of the existing residential use of a former agricultural outbuilding for over four years.

**Applicant:** Edward Ellis

**Site Visit Date:** Desktop assessment

### Submitted Documents/Plans

Application form  
Covering letter dated 26 September 2023  
Supporting evidence  
Photograph Evidence  
Insurance Schedule  
Kitchen and Bathroom Evidence  
Sky Evidence  
Septic Tank Evidence  
Plusnet Evidence  
General Purchase Evidence  
Gas and Boiler Evidence  
BT Evidence  
Drawing no. P22-2794\_DE\_001\_001 Rev. A (Site Location Plan)

### Relevant Planning History

| Reference | Description                                                                                                                                                                                                                                                                        | Decision  | Decision Date |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|---------------|
| 20230344  | Application for an existing Lawful Development Certificate in respect of the existing residential use of a former agricultural outbuilding for over four years.                                                                                                                    | Refused   | 28.06.2023    |
| 20030573  | Variation of condition 3 of planning permission reference number GR/2000/451 (for alterations and construction of a new pitched roof over existing dwelling) to allow the installation of a velux window in front roof slope and installation of a window in both side elevations. | Permitted | 02.09.2003    |
| 20000118  | Demolition of existing dwelling and erection of 2 bedroom dwelling and installation of cesspool.                                                                                                                                                                                   | Refused   | 13.04.2000    |
| 20000451  | Alterations and construction of new pitched roof over existing dwelling                                                                                                                                                                                                            | Permitted | 07.08.2000    |
| 19960376  | Renewal of planning permission GR/95/182 for retention of mobile home for residential use by an                                                                                                                                                                                    | Permitted | 07.10.1996    |

|          |                                                                                                                                                                                                                                   |           |            |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|------------|
|          | agricultural worker.                                                                                                                                                                                                              |           |            |
| 19970794 | The use of the building, coloured red on the attached plan, for residential purposes and the use of land outlined in red on the attached plan for a residential curtilage has subsisted for a period in excess of 4 (four) years. | Granted   | 29.12.1998 |
| 19950182 | Retention of mobile home for residential use by an agricultural worker.                                                                                                                                                           | Permitted | 26.05.1995 |
| 19910741 | Retention of mobile home for residential use by an agriculture worker.                                                                                                                                                            | Permitted | 26.02.1992 |
| 19900454 | Retention of mobile home for residential use for agricultural worker and construction of a cesspool and continued use of land as a poultry farm.                                                                                  | Refused   | 16.11.1990 |
| 19900453 | Outline application for erection of agricultural workers farm house and construction of cesspool.                                                                                                                                 | Refused   | 16.11.1990 |
| 19500137 | Use of land for erection of bungalow                                                                                                                                                                                              | Permitted | 06.11.1950 |

## Development Plan

As this is an application for a Lawful Development Certificate the matter is dealt with on the basis of an assessment of the available evidence; the issue of whether the use complies or not with the Development Plan does not apply in such circumstances.

## Consultations, Publicity and Representations

There is no statutory requirement to consult third parties. However, the application has been advertised by individual neighbour letter to 1 property.

No letters of representation have been received.

The overall consultation period expired on 19 October 2023.

### Dickens' Country Protection Society

The Society would wish to raise an objection on the grounds that the site is in an area within which Green Belt Policies apply where new residential development would not normally be permitted. No special circumstances have been put forward which would warrant overriding Green Belt Policy.

However, as this is a lawful development certificate application, any views expressed by third parties are irrelevant in the determination of the application.

## Analysis

### Previous Planning History

A previous LDC application (20230344) for the same proposal was refused on the following ground:

*By examining all the evidence submitted as part of this application, it is considered that when considered as a whole and on the balance of probability, there is insufficient precise and unambiguous evidence that the application site has been in continuous Class C3 residential use since April 2019, and as such in excess of 4 years ago, and is therefore unlawful by virtue of Section 191 (4) of the Town and Country Planning Act 1990 (as amended).*

The application sought to determine that the existing residential use of a former agricultural outbuilding

was lawful for planning purposes under Section 191 of the Town and Country Planning Act 1990 by virtue of the passage of time. In relation to time limits, Section 171B of the Town and Country Planning Act 1990 prescribes:

- (1) Where there has been 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 after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach

In order to determine an application for a Lawful Development Certificate and in accordance with S171B of the Town and Country Planning Act 1990 (as amended), it must be established whether or not the building was in residential use for more than 4 consecutive years; in the 20230344 case, since April 2019.

Para. 6 of the Government Guidance on Lawful Development Certificates states that:

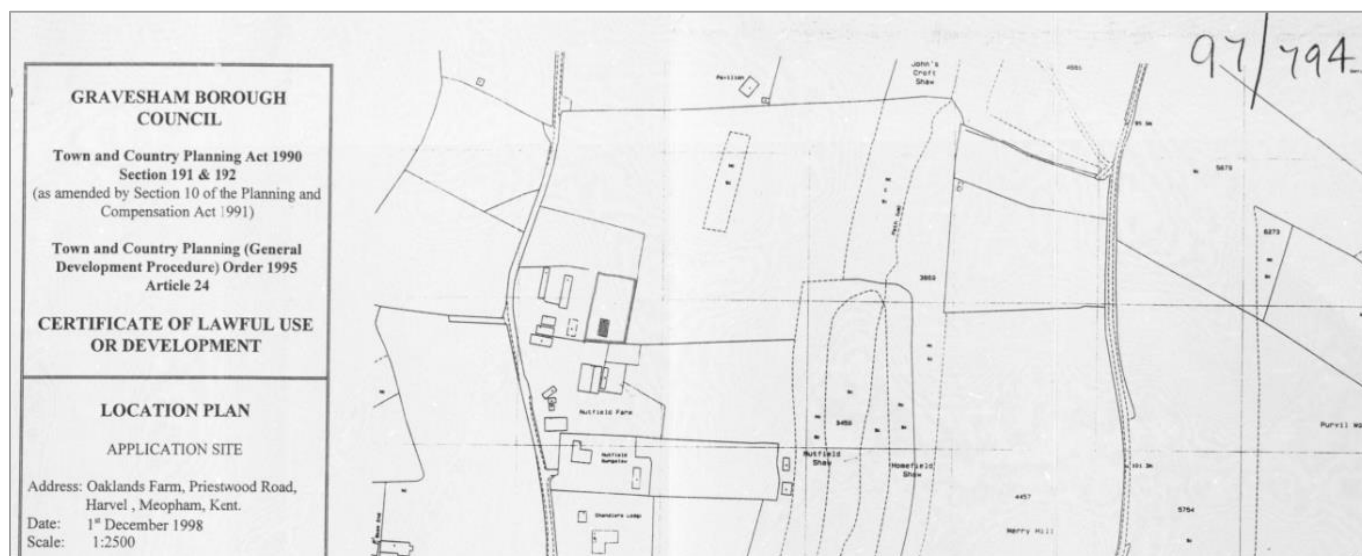
'In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.'

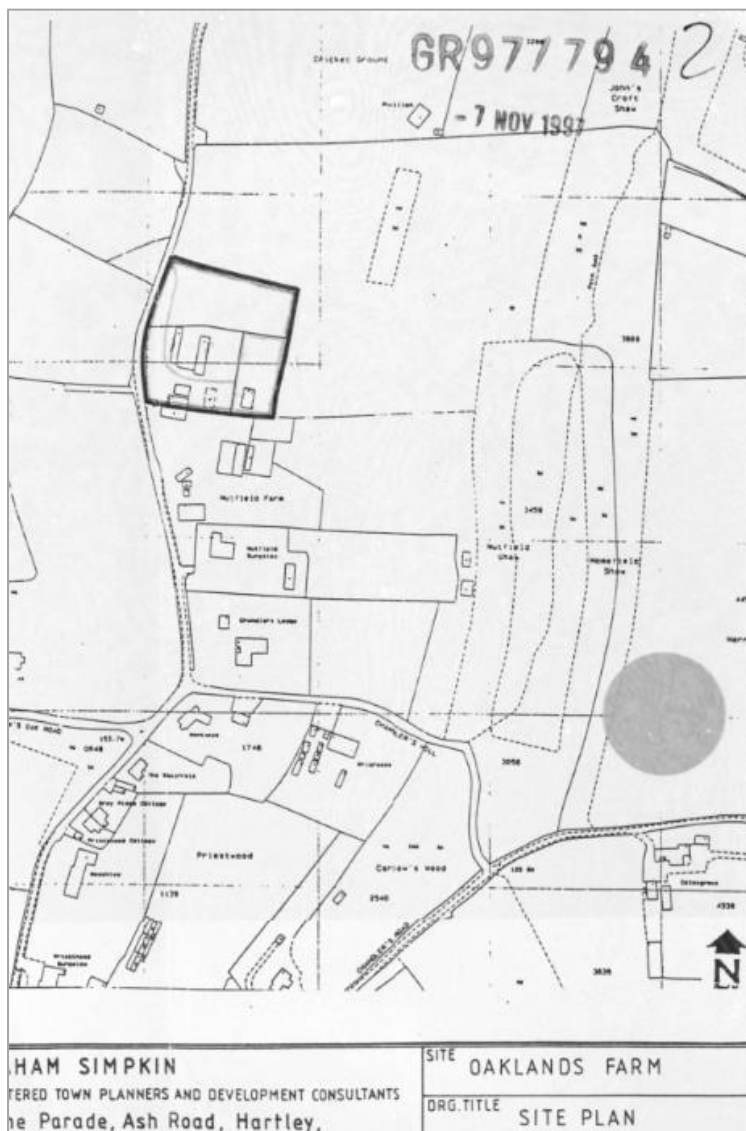
The current application is for the same proposal as the recently refused LDC application, but additional evidence has been included in an attempt to further demonstrate that the agricultural outbuilding is in lawful residential use, and has been since September 2019.

## Background

Oaklands Farm comprises a number of agricultural buildings associated with a previous farm use. The previous planning history of the site includes application 19970794, where a Lawful Development Certificate was granted as the application building and land had been in continuous residential use for 4 years.

97/0794

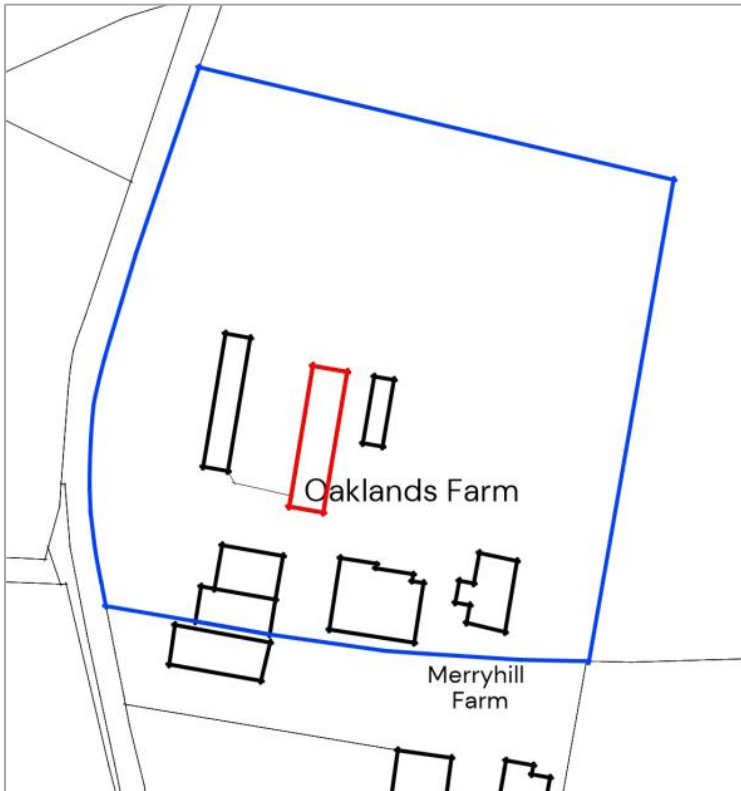




The submitted covering letter sets out the sequence of events running up to the present time. The whole site has been owned by the applicant since 2008, when the family moved into the dwelling that had been granted a lawful development certificate.

The current application seeks to clarify the residential use of a separate outbuilding over time:

*Submitted Site Location Plan:*



The outbuilding was vacant when the applicant first bought the site. After a storm in 2010 the roof collapsed, and this was rebuilt in 2011, initially remaining vacant. The roof restoration was followed by the installation of windows and new internal partition walls, which was completed in 2012. There have been exterior photos submitted from December 2012 and January 2013 which show the new roof and windows.



**25 December 2012 at 13:41:10**

iPhone 4



**22 January 2013 at 07:26:25**

iPhone 4

Following this, over time the building was transformed into the dwelling that it is currently used as today. It was originally used as a playroom, then becoming an annexe used by visitors staying overnight, and in 2017 it is stated that the applicant moved in and fully occupied the building, with their child moving into the original dwelling. The outbuilding is currently clearly in residential use.

*Google Earth Image April 2007*



*Google Earth Image March 2011*



The above image would concur with the timing of the roof work being stated to be undertaken and the visible change to the roof subsequently.

*Google Earth Image 2018*

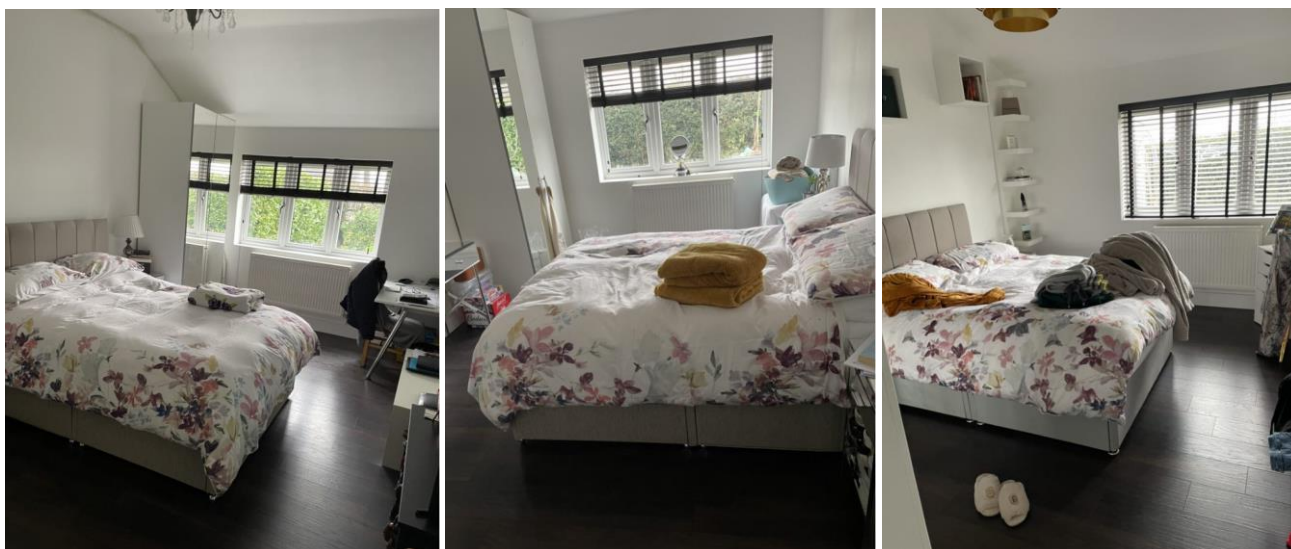


*Google Earth Image August 2022*



*Current site photos:*





### Review of Submitted Evidence

The applicant has submitted additional evidence to attempt to demonstrate that the building has been in residential use for more than 4 years.

The evidence from September 2019 is the most relevant to the case, though various details have been provided from before that date. The evidence prior to 2019 includes bathroom goods orders from January 2014 and March 2016, a kitchen order from July 2016, a septic tank collection work order from August 2016, flooring purchases from November 2016 and May 2017, internal door purchases from March 2017, a home and lifestyle insurance schedule from May 2017, BT paperwork dating from January 2018, gas refill delivery notes from February 2018, and furniture receipts (including a bed from September 2017 and wardrobes from May 2018).

After April 2019, there is paperwork for Sky package changes, septic tank collection paperwork, Plusnet paperwork, electoral register paperwork, gas refill paperwork, and BT bills. The BT bills show two different phone numbers for the site.

Photographs have been submitted to correspond with the various bathroom, kitchen, flooring, gas etc. purchases, and further photos have been taken of the interior of the existing dwelling on the site to prove the differences in the interiors of the two buildings, as well as different gas supplies, septic tanks, etc. There are photos showing Christmases in the application building going back to 2018.

The submitted Supporting Evidence letter also sets out that the Google image from May 2018 (see above) clearly shows a TV Ariel and soil pipe, a boiler flue and the gas bottles, which are all present on the current application building. These aerial images indicate the residential use of the building.

These additional details demonstrate the residential use of the outbuilding since 2019 more clearly than the previous application. Within the previously refused application, there was nothing to clearly indicate that the evidence related to the outbuilding rather than the main house; BT/Sky/septic tank/gas/electoral roll etc could all have been reasonably be linked to the main dwelling instead of the outbuilding, which has no separate address. The submitted evidence was (and still is) addressed as 'Oaklands Farm', which is the address of the main dwelling on the site. The photos previously submitted were not dated or cross referenced with other evidence. It is apparent that there are two different buildings on the site in residential use, and more particularly that the outbuilding has been in such use for at least 4 years.

Whilst Council Tax records only encompasses one house and a caravan on the site and there is no Council knowledge of any other dwellings on the site (Council Tax has not been paid for any additional dwelling), this does not wholly prove that the application building has not been in residential use since 2019.

The additional submitted evidence appears to support the claim that the outbuilding has been in residential use for four years. The supporting evidence is sufficiently precise and unambiguous to prove that the outbuilding has been in continuous residential use, and the evidence clearly relates to the outbuilding rather than the main house. The certificate should therefore be granted.

By examining all the evidence submitted as part of this application, it is considered that when considered as a whole and on the balance of probability, there is sufficient evidence that the outbuilding has been in continuous residential use since April 2019, and as such in excess of 4 years ago, and the proposal is therefore lawful.

**Recommendation:**

Grant Certificate.

See draft Decision.

|                      |                      |                     |                                                                                     |
|----------------------|----------------------|---------------------|-------------------------------------------------------------------------------------|
| <b>Case Officer:</b> | Mrs Katherine Parkin | <b>Team Leader:</b> | Miss Faye Hobbs                                                                     |
| <b>Signed:</b>       | <i>K. Parkin</i>     | <b>Signed:</b>      |  |
| <b>Dated:</b>        | 15 November 2023     | <b>Dated:</b>       | 16 November 2023                                                                    |