

DELEGATED FILE NOTE

CASE OFFICER: ...Alex Howard.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
25/01485/LDCE	Certificate of lawful existing development for a car port and home office building that was completed over 4 years ago	75 Weston Way Baldock Hertfordshire SG7 6HB

Submitted Plan Nos

484/001 484/101

1.0 Policies

2.0 **Site History**

2.1 **24/00163/FPH** - Detached timber carport – retrospective.

Refused

2.2 **23/00434/LDCP** - Insertion of rooflights to existing front and dormer to existing rear roofslope to facilitate conversion of loftspace into habitable accommodation.

Granted

2.3 **11/02933/1HH** - Single storey rear extension following removal of existing conservatory. Detached double garage in front garden.

Conditional Permission

3.0 **Representations**

3.1 N/A.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site is one of a pair of semi-detached bungalows located on the east side of Weston Way, Baldock. The property benefits from a long, narrow plot with the dwelling set back a considerable distance from the highway. The property has been extended and altered considerably, and benefits from a detached double garage in the front garden/driveway which was granted planning permission in 2011.

4.2 **Proposal**

4.2.1 A certificate of lawfulness (existing) is sought to confirm that the detached car port/office building was completed over 4 years ago and is therefore lawful through the passage of time.

4.3 **Key Issues**

4.3.1 In line with the above, Section 171b of the Town and Country Planning Act (TCPA) 1990 (Amended) states that no enforcement action can be taken on a breach of planning control if a period of 10 years has surpassed from the date on which the operations were substantially completed. The recent changes to the TCPA 1990 following the Levelling Up and Regeneration Act (LURA) 2023 included the abolishing of the 4-year rule, but

this change included an allowance for a transitional period, and the now 10-year rule only applies where operational development was substantially completed on or after 25th April 2025. This means that where operational development was completed before that date, the 4-year rule remains the relevant time period.

- 4.3.2 The supporting Cover Letter with this application sets out that the construction of the car port and office building at the site was substantially completed by October 2020 and is therefore immune from enforcement action through the passage of time. This submission is supported by the following evidence:

- o Site Location/Existing Site Plans
- o Signed Statutory Declarations from the Applicant, and others who worked on the construction phase through various periods of time.
- o Photo Timeline throughout construction phase on Instagram with date stamps
- o Invoices and bank statements

Key Considerations

- 4.3.3 The first consideration in this case is the recent refusal of planning permission under ref: 24/00163/FPH on the 19th March 2024. The reason for refusal is not wholly relevant to this application for a certificate of lawfulness, but within that application it is noted that the Officer report contains the following summary:

“As part of the application submission, the owner has given details regarding whether work had already started without consent has been answered yes and dates given for commencement and completion are 15 January 2019 and 03 March 2019 respectively, which would suggest that the building is lawful through the passage of time and therefore immune from enforcement action. However, no evidence has been submitted by way of a Lawful Development Certificate to show that on the balance of probabilities, this is the case. As such, the application will be considered on the basis that this building is not lawful”.

- 4.3.4 The submitted Cover Letter with this application sets out that works on site commenced in December 2018 through site clearance works and that development was completed in October 2020, which identifies clear inconsistencies between the dates provided for commencement and especially completion during the previous planning application. However, the main difference here is that those previous dates were not corroborated by any kind of evidence base which is likely to be why a Lawful Development Certificate was not sought at that time, whereas the dates set out in this submission appear to be supported by evidence in some degree. It is therefore considered that the previously stated dates are of no bearing on this application.
- 4.3.5 The primary evidence base for this Certificate of Lawfulness is a statutory declaration from Mrs Sharman, who is one of the applicants, which accounts for the works and timeline of events carried out on site. This declaration is supported by a photo timeline that the applicant posted on Instagram during the construction phase. Officers have considered the photo timeline of events and whilst all of the photos are not entirely clear, in that they definitely show the site in question, some of the photos are clear and supported by the Officers site visit. Officers considered that this relates to the April 2020 photo, which clearly shows the curved wall at the site in the foreground with construction related materials in the background, the several May 2020 photos which are clearly of

that front portion of the site, and the June, September and October 2020 photos which show the project nearing completion on what is clearly the application site. This declaration from the applicant and supporting photo timeline is also supported by statutory declarations from 8 people who worked on the construction of the building during various periods and dated invoices/receipts for construction work carried out, which corroborate the timeline of events from Mrs Sharman. Officers consider that the evidence put forward is cumulatively strong to argue that the detached car port/office building was commenced on site in at least April 2020 and was substantially completed by at least October 2020.

- 4.3.6 The NPPG is clear that when considering a Lawful Development Certificate for an Existing Use of Development:

"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".

- 4.3.7 In this case, the Local Planning Authority does not have any evidence itself to contradict or otherwise dispute the applicants version of events. Indeed, it is Officers opinion that the existing detached car port/office building was, on the balance of probabilities, substantially completed by October 2020. Therefore, the building would be subject to the previous 4-year rule under the transitional arrangements under the LURA 2023 and seeing as this application was submitted on the 6th June 2025 and no enforcement action has been taken on the building in question, it is considered lawful through the passage of time in accordance with Section 171b of the TCPA 1990.
- 4.3.8 Therefore, a certificate of lawfulness can be issued for the elements of the development submitted under this application, in accordance with Section 171B of the Town and Country Planning Act 1990 (Amended).

5.0 **Recommendation**

- 5.1 That a certificate of lawfulness be **ISSUED** for the following reason:

1. The evidence submitted within this application supports the view that, on the balance of probabilities, the detached car port/office building had been substantially completed by October 2020. In accordance with Section 171B of the Town and Country Planning Act 1990, and subject to the transitional arrangements set out under the Levelling Up and Regeneration Act 2023, no enforcement action can be taken upon a breach of planning control if a period of 4 years, depending on the breach, has surpassed from the date on which the operations were substantially completed. Therefore, a certificate of lawfulness can be issued for the detached car port/office building.

Signed  Anne McDonald	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 23 July 2025	