



Introduction

Please find enclosed an application for a Certificate of Lawfulness of Existing Use or Development under S191 of the Town & Country Planning Act 1990 (TCPA) for the above site. The Certificate application seeks to establish that a lawful, material start has been made on the site and that permission ref. 3/2020/1059 is therefore saved in perpetuity.

Planning History

Application ref. 3/2020/1059 was submitted on 10th December 2020 and validated 21st December 2020. The application was approved 11th August 2021. The approved description of development is:

New development (to replace approved but unbuilt development from 2008 planning consent) including: New Spa and Leisure Complex, Banquet Hall, Extensions to Existing Hotel Entrance and Restaurant, New Bedroom Block, Extended Car Park, Amendment of Internal Access Road, Rerouting of Park Public Right of Way and Enhancement of Existing Section of Right of Way, New Hard and Soft Landscaping and Tree Planting.

The permission included 11 planning conditions. Condition 4 is worded as follows:

No development other than groundworks shall commence until details of how surface water and pollution prevention will be managed during each construction phase have been submitted to and approved in writing by the local planning authority. Those details shall include, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during construction phase(s) and, if surface water flows are to be discharged they are done so at a restricted rate to be agreed with the Lancashire County Council LLFA.*
- b) Measures taken to prevent siltation and pollutants from the site into any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance. The development shall be constructed in accordance with the approved details.*

An application was submitted on 30th August 2023 for the approval of details reserved by condition 4 (surface water drainage) of planning permission 3/2020/1059. The application was validated 7th September 2023 under reference 3/2023/0695 and was confirmed as being partially discharged subject to full implementation on 19th February 2024.

Evidence

Section 56 of the TCPA sets out the conditions required whereby development of land shall be taken to be initiated. Section 56 (4) states that a 'material operation' means (a) 'any work of construction in the course of the erection of a building'; and (b) 'the digging of a trench which is to contain the foundations, or part of the foundations, of a building'.

As demonstrated on the supporting plans, the applicant has undertaken relevant groundworks for the excavation land to form a trench (the works) which is to contain the foundations of part of a building (a two-storey bedroom wing) approved under application ref. 3/2020/1059. The works were undertaken on 18th December 2023.

The conditions associated with permission 3/2020/1059 allows groundworks to commence in advance of relevant pre-commencement conditions being formally discharged. Accordingly, the works undertaken are in complete accordance with permission 3/2020/1059.

The applicant has sought building regulations approval in relation to the subject two-storey bedroom wing. This will be the first element of the wider permitted development under ref. 3/2020/1059 to be constructed, with the other elements to follow in accordance with commercial timescales.

It is estimated that the construction of the two-storey bedroom wing will be finalised approximately 18 months following building regulations approval.

Seeing as under the approved permission, the applicant had until 11th August 2024 to commence works, the permitted development had commenced within the 3-year time limit in accordance with condition 1 of planning permission 3/2020/1059.

It is clear from the information provided that the proposed works necessary to formulate a trench which is to contain foundations of a building for the development permitted under application ref. 3/2020/1059 can be considered as a material operation and are part of the approved development, in line with Section 56 of the TCPA. Therefore, a certificate stating that the existing development is lawful and that permission ref. 3/2020/1059 is saved in perpetuity should be issued.